



THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

WAYNE K. CURRY COUNTY ADMINISTRATION BUILDING, LARGO, MARYLAND 20774
TELEPHONE (301) 952-3220

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-79-23 Solomon Kassa

Enclosed herewith is a copy of the Board Order setting forth the action taken by the Board of Appeals in your case on the following date: April 24, 2024.

CERTIFICATE OF SERVICE

This is to certify that on July 10, 2024, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

A handwritten signature in black ink, appearing to read "Barbara J. Stone".

Barbara J Stone
Administrator

cc: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting

BEFORE THE BOARD OF APPEALS FOR PRINCE GEORGE'S COUNTY, MARYLAND
Sitting as the Board of Zoning Appeals

Petitioners: Solomon Kassa

Appeal No.: V-79-23

Subject Property: Lot 21, Block F, Ray Park Estates Subdivision, being 1102 Raydale Road, Hyattsville, Prince George's County, Maryland

Witness: Inspector Kenneth Harrison, Department of Permitting, Inspections and Enforcement, (DPIE)

Amharic Interpreter: Meskerem Balkew

Heard: March 27, 2024; Decided: April 24, 2024

Board Members Present and Voting: Bobbie S. Mack, Chairperson

Carl Isler, Vice Chairman

Renee Alston, Member

Board Members Absent: Teia Hill, Member

RESOLUTION

This appeal is brought before the Board of Appeals, sitting as the Board of Zoning Appeals for the Maryland-Washington Regional District in Prince George's County, Maryland (the "Board"), requesting a variance from the strict application of the provisions of Subtitle 27 of the Prince George's County Code (the "Zoning Ordinance").

In this appeal, a proceeding pursuant to Section 27-3303 of the Zoning Ordinance, Petitioners request that the Board approve a variance from Section 27-4202(e) of the Zoning Ordinance, which prescribes that each lot shall have a minimum net lot area of 6500 square feet, minimum width of 65 feet measured along the front building line. Petitioner proposes to validate existing conditions (net lot area, lot width) and obtain a building permit for the unauthorized construction of a retaining wall in the front yard and a 3' x 21' foot driveway extension located in front of the house. Variances of 309 square feet net lot area, 1-foot lot width, a security exemption review for a fence/wall (actual overage) over the allowable height located in the front yard, and a waiver of the parking area location requirement are requested.

Evidence Presented

The following testimony and record evidence were considered by the Board:

1. The property was subdivided in 1953, contains 6,191 square feet, is zoned RSF-65 (Residential, Single Family-65) and is improved with a single-family dwelling, driveway, two sheds, retaining walls and concrete patio. Exhibits (Exhs.) 2, 3, 6, 7, and 8 (A) thru (F).

2. The subject lot is rectangular in shape, and the adjacent properties are similar in shape and size. Exhs. 2 and 3.

3. Petitioners propose to validate existing conditions (net lot area, lot width) and obtain a building permit for the unauthorized construction of a retaining wall in the front yard and a 3' x 21' foot driveway extension located in front of the house. Variances of 309 square feet net lot area, 1-foot lot width, a security exemption review for a fence/wall (actual overage) over the allowable height located in the front yard, and a waiver of the parking area location requirement are requested. Exhs. 2, 3, 6, 7, and 8 (A) thru (F).

4. Petitioner Solomon Kassa testified that he does not plan to do anything on the property; he just purchased the property on October 27, 2021. He did not construct anything. The driveway, including the retaining wall, was there when he purchased the property. Exhs. 2 and 3 (A) thru (G).

5. Case reviewer Celeste Barlow stated that she did not intend to include the retaining wall in the hearing notice because the elevation plans submitted did not appear over 4 feet. Exh. 9.

6. Inspector Harrison stated that any retaining wall over 2 feet requires a building permit.

7. Administrator Stone noted that the wall may need a permit but not a variance.

8. Board Member Isler questioned the Inspector regarding the extension of the apron. Inspector Harrison noted that he could not tell from the photos displayed.

9. Madam Chair questioned whether the Petitioner constructed the walkway. Mr. Kassa noted that he has done no construction on the property.

10. Board Member Isler questioned Inspector Harrison about how he was made aware of the violation. Inspector Harrison noted that the violation came from a complaint.

11. Mr. Isler noted that Exhibit 8, photo F, shows the date December 2002. Further questioning that they do not need a variance, only the permit.

12. Madam Chair clarified that the only variance needed is the driveway. Administrator Stone noted that was correct.

13. Board Member Isler questioned the Petitioner about the need for the extended driveway. Mr. Kassa responded that he did not need it.

Madam Chair made a motion to take this under advisement. Board Member Isler seconded the motion. Motion carried 3/0. (Mack, Isler, and Alston)

On April 24, 2024, the case was heard as a Discussion/Decision item.

1. The Board determined that the lot was not unique or unusual in any way. In addition, the retaining wall and driveway extension are unauthorized constructions.

2. Mr. Isler stated that the Petitioner must remove the 3-foot strip driveway extension and the retaining wall.

Applicable Code Section and Authority

The Board is authorized to grant the requested variances if it finds that the following provisions of Section 27-3613(d) of the Prince George's County Zoning Ordinance are satisfied:

(d) General Variance Decision Standards

A variance may only be granted when the review board or official, as appropriate, finds that:

- (1) A specific parcel of land is physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness, shallowness, shape, exceptional topographic conditions, or other extraordinary conditions peculiar to the specific parcel (such as historical significance or environmentally sensitive features);
- (2) The particular uniqueness and peculiarity of the specific property causes a zoning provision to impact disproportionately upon that property, such that strict application of the provision will result in peculiar and unusual practical difficulties to the owner of the property.
- (3) Such variance is the minimum reasonably necessary to overcome the exceptional physical conditions.
- (4) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the General Plan or any Functional Master Plan, Area Master Plan, or Sector Plan affecting the subject property.
- (5) Such variance will not substantially impair the use and enjoyment of adjacent properties; and

(6) A variance may not be granted if the practical difficulty is self-inflicted by the owner of the property.

Findings of the Board

After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variances do not comply with the applicable standards set forth in Section 27-3613(d), and **ALL** criteria must be satisfied in order for the Board to grant a variance; however, the specific criteria that were not met are as follows:

1. A specific parcel of land is physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness, shallowness, shape, exceptional topographic conditions, or other extraordinary conditions peculiar to the specific parcel (such as historical significance or environmentally sensitive features). The Board determined that the subject property does not meet Section 27-3613(d)(1) as the property did not contain any features that were different from the surrounding properties.
2. A variance may not be granted if the practical difficulty is self-inflicted by the owner of the property. As building permits were not obtained prior to the construction of the driveway extension or retaining wall, the need for a variance would be considered self-inflicted. The Board determined that the subject property does not meet Section 27-3613(d)(6).

BE IT THEREFORE RESOLVED, by majority vote, Ms. Alston absent, that Variances of 309 square feet net lot area, 1-foot lot width, a security exemption review for a fence/wall (actual overage) over the allowable height located in the front yard, and a waiver of the parking area location requirement in order to validate existing conditions (net lot area, lot width) and obtain a building permit for the unauthorized construction of a retaining wall in the front yard and a 3' x 21' foot driveway extension located in front of the house. on the property located at 1102 Raydale Road, Hyattsville, Prince George's County, Maryland, be and is hereby DENIED.

BOARD OF ZONING APPEALS

By: *Bobbie S. Mack*

Bobbie S. Mack, Chairperson

Approved for Legal Sufficiency

By: *Ellis Watson*

Ellis Watson, Esq.

NOTICE

Within thirty (30) days from the date of this decision, any person, firm, corporation, or governmental agency who was a party to the Board's proceedings and is aggrieved by its decision may file an appeal to the Circuit Court of Prince George's County.

Further, Section 27-234 of the Prince George's County Code states:

If the Board denies an appeal involving a variance, no further appeal covering the same specific subject on the same property shall be filed within the following twelve (12) month period. If the second appeal is also denied, no other subsequent appeals covering the same specific subject on the same property shall be filed within each eighteen (18) month period following the respective denial.