

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-145-16 Miriam Sanchez

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: December 14, 2016 .

CERTIFICATE OF SERVICE

This is to certify that on December 30, 2016 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)
Barbara J. Stone
Acting Administrator

cc: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Inspections Division
Mark Maier, Spanish Language Interpreter
Other Interested Parties

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

Petitioners: Miriam Sanchez

Appeal No.: V-145-16

Subject Property: Lot 10, Block 29, Hillcrest Heights Subdivision, being 4102 Rocky Mount Drive,
Temple Hills, Prince George's County, Maryland

Witnesses: Miguel Navarrete (Life partner)
Anne Dempsey (Neighbor),
Jeremy Symons (Friend),
Frances Melvin (Neighbor)

Spanish Language Interpreter: Mark Maier

Heard and Decided: December 14, 2016

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Albert C. Scott, Vice Chairman
Anastasia T. Johnson, 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 variances 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 27-229 of the Zoning Ordinance, Petitioner requests that the Board approve variances from Section 27-442(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking, and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 2 feet from any side or rear lot line. Petitioner proposes to validate existing conditions and obtain a building permit for an existing driveway expansion. Variances of 8.6% net lot coverage and 2 feet rear lot line setback for an accessory building¹ are requested.

Evidence Presented

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

1. The property was subdivided in 1964, contains 7,062 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 3, 7 and 19.
2. Petitioner was issued Violation Notice No. 55839-2016, dated October 26, 2016, by the Department of Permitting, Inspections and Enforcement, requiring that the required permits be obtained for work done at the property, including but not limited to new driveway expansion or the work be removed. Exh. 4(A) thru (D) and 5.
3. Petitioner would like to obtain a building permit for a new 10' x 97.3' driveway on the right side of the property (Exh. 19), but variances are needed to obtain the permit. Since construction of the driveway caused the allowed amount of net lot coverage (30%) to be exceeded, a variance of 8.6% net lot coverage was requested. Exh. 4(A) thru (D), 11 and 19.

¹ Petitioner stated at the hearing that the shed in the rear yard will be removed and therefore no setback variance for an accessory building is needed. See Exh. 19.

4. He stated the inspector advised him that they have to remove 3.5 feet of the driveway next to the neighbors (Anne Dempsey) property and that it should be cut at an angle. Exh. 19. Petitioner Miriam Sanchez explained that the inspector drew the angled area to be removed on the site plan. Exh. 19.

5. Mr. Navarrete testified that the concrete behind the house is a patio that was extended. He described that the patio cannot be accessed by vehicles as there is a 1-foot high barrier around the patio. Exh. 4(F) thru (G), and 19.

6. Petitioner Miriam Sanchez revised the site plan to indicate the removal of the shed in the rear. Exh. 4(G) and 19.

7. Anne Dempsey stated that she was concerned about the digging and whether it infringed on her property. Ms. Dempsey stated that she was unaware of the “removing” of the 3.5 feet from the driveway abutting her property. She explained that the water runoff does not affect her property. She is not opposed to the work that has been done. Exh. 19.

Applicable Code Section and Authority

Section 27-230 of the Zoning Ordinance authorizes the Board to grant variances when, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, provided such relief can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan.

Findings of the Board

After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variances comply with the applicable standards set forth in Section 27-230, more specifically:

Due to the lot size being 7, 062 square feet and the character of the neighborhood, granting the relief requested would not substantially impair the intent, purpose and integrity of the General Plan or Master Plan, and denying the request would result in a peculiar and unusual practical difficulty upon the owner of the property.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 8.6% net lot coverage to validate existing conditions and obtain a building permit for an existing 10' x 97.3' driveway expansion on the property located at Lot 10, Block 29, Hillcrest Heights Subdivision, being 4102 Rocky Mount Drive, Temple Hills, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved revised site plan, Exhibit 19.

BOARD OF ZONING APPEALS

By: (Original Signed)
Bobbie S. Mack, Chairperson

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 27-233(a) of the Prince George's County Code states:

A decision of the Board, permitting the erection of a building or structure, shall not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision and the permit.