

*NOTICE OF FINAL DECISION*

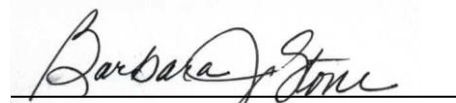
*OF BOARD OF APPEALS*

RE: Case No. V-199-17 James Jones, Jr.

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 25, 2018 .

**CERTIFICATE OF SERVICE**

This is to certify that on June 1, 2018 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

  
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***

Petitioner: James Jones, Jr.

Appeal No.: V-199-17

Subject Property: Lot 18, Hills of Mullikan Station Subdivision, being 16605 Peach Street, Bowie,  
Prince George's County, Maryland

Witnesses: Shirley and Albert Ballard, Neighbors

Jennifer and Jonathan Johnson, Neighbors

Roxanne Long, Neighbor

Richard and Dawn Patterson, Neighbors

Betty Shaw, Neighbor

Abelardo Pena and Yamilet Vivar, Neighbors

Heard: February 28, 2018; Decided: April 25, 2018

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 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 27-229 of the Zoning Ordinance, Petitioner requests that the Board approve a variance from Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall generally be located only in the rear yard. Petitioner proposes to construct a detached garage in the side yard and a driveway extension. A waiver of the rear yard location requirement for an accessory building is requested.

**Evidence Presented**

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

1. The property was subdivided in 1994, contains 109,296 square feet, is zoned R-A (Residential-Agricultural) and is improved with a single-family dwelling and driveway. Exhibits (Exhs.) 2, 4, 9, 10 and 11 (A) thru (F).
2. The property is an odd shaped lot. Exhs. 2 and 4.
3. Petitioner would like to construct a 24' x 24' detached garage and driveway extension. Because the garage would be in the side yard about 15 feet from the dwelling, a waiver of the rear yard location requirement for an accessory building was requested. Exhs. 2, 3 (a) thru (b) and 13.
4. Petitioner James Jones testified that his house sits approximately 100 feet back from Peach Street and he would like to construct a detached two-car garage to store his tractor<sup>1</sup> and an extended driveway to reach the garage. The proposed garage will be front loading. He stated that the proposed garage cannot be

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<sup>1</sup> He stated that because there is no snow removal service in his neighborhood, his tractor is used to provide that community service for neighbors and his property.

placed in the rear of the subject property because of a large tree and a 50-foot surface drainage easement that run directly through his rear yard. He stated that the only other possible area the garage could be located is Appeal No V-199-17

to the far rear of the property (behind the easement) which is 600 feet away. He stated that the exterior materials on the proposed garage will match the appearance of the house. Exhs. 2, 3 (a) thru (b) and 6 (A) thru (C).

5. Yamilet Vivar, 1415 Crain Highway, questioned if the proposed garage would ruin her entrance to her house since they have a shared entrance.

6. Mr. Jonathan Johnson, 16613 Peach Street, testified that the community consist of 19 homes and is known as The Hills over Mullikan Station. He stated that there is not a home owner's association but there are covenants that exists. Exhs. 20 and 21.

7. Several neighbors believe that the proposed construction is in violation of the covenants because the garage will be front loading as opposed to side loading.<sup>2</sup> The neighbor located directly in front of the subject property supported the construction. Exh. 28. Petitioner contended that other properties in the community have front loading garages.<sup>3</sup> Exh. 26.

8. Mr. Johnson stated that the County does plow their street.

9. Mr. Jones stated that he did not initially want his garage doorway to be front-sided but if the door was on the side of the dwelling, a second driveway would have to be built all the way down from the street. Exh. 2.

#### 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 variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the rear location of a substantial surface drainage easement and a septic area, a large tree also in the rear yard, the only other suitable location for the proposed garage being in the far rear yard of the property, the community concern seems to be the front-entry construction of the garage as opposed to the actual location of the garage itself, 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 owners of the property.

BE IT THEREFORE RESOLVED, unanimously, that a waiver of the rear yard location requirement to construct a 24' x 24' detached garage in the side yard and driveway extension on the property located at Lot 18, Hills of Mullikan Station Subdivision, being 16605 Peach Street, Bowie, Prince George's County,

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<sup>2</sup> The covenants simply state that each lot "shall include a side entry garage." Exh. 20, Section 2 of Article 1.

<sup>3</sup> The Board requested a final decision by the community by April 25, 2018. Exh. 25. The community is apparently in continued deliberation and any final decision is "on hold." Exh. 29.

Maryland, be and is hereby APPROVED. Approval of the variance(s) is contingent upon development in compliance with the approved site plan, Exhibit 2 and approved elevation plans, Exhibits 3 (a) thru (b).

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BOARD OF ZONING APPEALS

By: \_\_\_\_\_  
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.