



THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

COUNTY ADMINISTRATION BUILDING, UPPER MARLBORO, MARYLAND 20772
TELEPHONE (301) 952-3220

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-69-21 Michael Toye

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: November 17, 2021.

CERTIFICATE OF SERVICE

This is to certify that on March 28, 2022, 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". Below the signature, the name "Barbara J. Stone" is printed in a standard black font, followed by the title "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: Michael Toye

Appeal No.: V-69-21

Subject Property: Lot 21, Block A, Holly Park Subdivision, being 609 Birchleaf Avenue, Seat Pleasant,
Prince George's County, Maryland

Municipality: Town of Seat Pleasant

Heard: July 28, 2021; Decided: November 17, 2021

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(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a side yard at least 8 feet in width. Petitioner proposes to validate existing conditions (side yard width, net lot coverage and waiver of parking area) and obtain a building permit for widening the driveway. Variance of 5 feet side yard width, 2.3% net lot coverage, and a waiver of the parking area location requirement is requested.

Evidence Presented

1. The property was subdivided in 1955, contains 3,510 square feet, is zoned R-35 (One-Family Semidetached Residential) and is improved with a semi-detached dwelling, and driveway. Exhibits (Exhs) 2, 3, 9, 10 and 11 (A) thru (F).

2. The subject lot is very narrow at 30 feet in width. Exhs. 2, 3, 9, 10 and 11 (A) thru (F).

3. Petitioner proposes to validate existing conditions (side yard width, net lot coverage and waiver of parking area) and obtain a building permit for widening the driveway. The right side yard is only 3 feet from the property line, therefore, a variance of 5 feet is required. The maximum allowable lot coverage for R-35 property is 30%; the current lot coverage is at 32.3%. A variance of 2.3% lot coverage is required. A waiver of the parking area location is also needed as the widened driveway will be predominantly in front of the dwelling. Exhs. 2 and 4 (A thru (D)).

4. Petitioner Michael Toye testified that the existing driveway was deteriorating. He decided that since the driveway needed to be resurfaced, he would also increase the width of the driveway¹ to accommodate two cars as he noticed that some neighbors had two-car driveways. He believed that the proposed improvement, which has not been completed, would be in character with the neighborhood. He explained to the Board that he and his wife would like to be able to safely park their vehicles off-street with their children. Exhs. 2, 4 (A thru (D)), and 12 (A and B).

5. On March 12, 2021, the City of Seat Pleasant issued a violation notice (stop order) and corrective action related to the "building construction." Exh. 7.

¹ The existing driveway was located fully in the front yard area. Exhs. 2 and 11 (F).

6. The City Council of Seat Pleasant subsequently voted unanimously to approve the requested variances. Exh. 20.

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

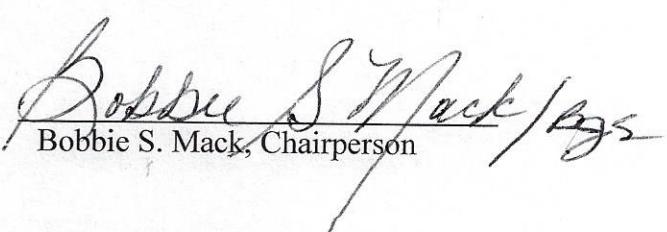
After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the subject property being very narrow at 30 feet in width, the dwelling is a semi-detached structure (with one side yard), the existing driveway is deteriorating, the desire for safe family off-street parking, other double driveways are located in the neighborhood 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 variance of 5 feet side yard width, 2.3% net lot coverage, and a waiver of the parking area location requirement in order to validate existing conditions (side yard width, net lot coverage and waiver of parking area) and obtain a building permit for widening the driveway. on the property located at 609 Birchleaf Avenue, Seat Pleasant, Prince George's County, Maryland, be and is hereby APPROVED of the variances is contingent upon development in compliance with the approved site plan, Exhibit 2.

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.

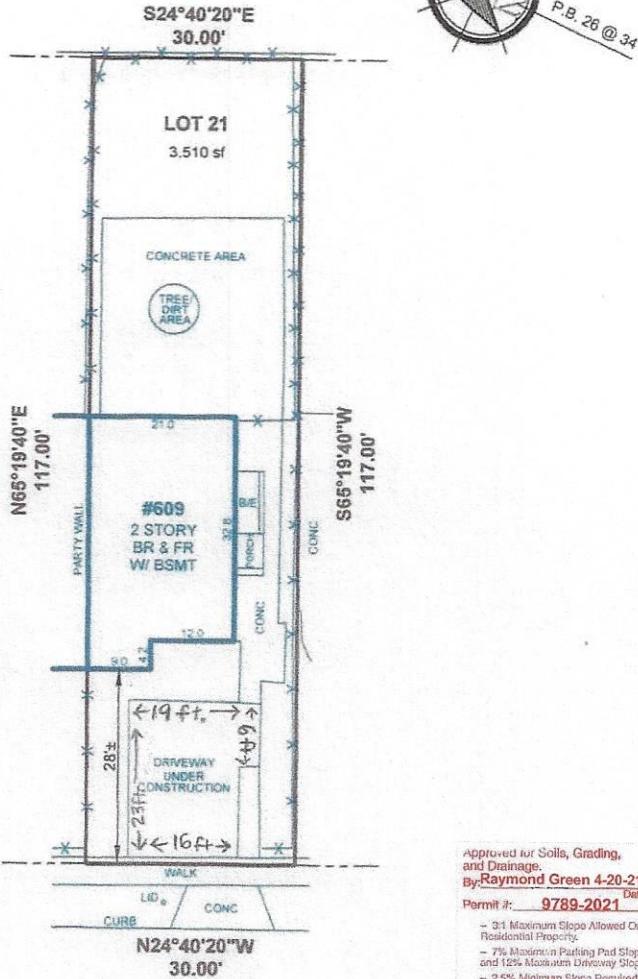
Further, Section 27-233(a) of the Prince George's County Code states:

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.

BOARD OF APPEALS

APPROVED NOV 17 2021

ADMINISTRATOR



Approved for Soils, Grading,
and Drainage.
By Raymond Green 4-20-21

Permit #: 9789-2021 Date

Permit #: 9789-2021

- 3:1 Maximum Slope Allowed On Residential Property.

- 7% Maximum Parking Pad Slope and 12% Maximum Driveway Slope.
- 2.5% Minimum Slope Required On Yard or Lawn Areas. 10' in 10' Minimum Slope of Pad Away From Building Is Required.

Approval for parking pad only. Permit for areas within R/W required from City of Capitol Heights.

THE LEVEL OF ACCURACY OF DISTANCES TO APPARENT PROPERTY LINES IS 1±

LOCATION DRAWING OF:
#609 BIRCHLEAF AVENUE
LOT 21 BLOCK A
PLAT ONE
 HOLLY PARK
PLAT BOOK 26, PLAT 34
PRINCE GEORGE'S COUNTY, MARYLAND
SCALE: 1"=20' DATE: 04-06-2021

LEGEND:

— FENCE
 B— BASEMENT ENTRANCE
 BW— BLOWOUT
 BR— BRICK
 BRL— BLDG RESTRICTION LINE
 BSTM— BASEMENT
 C— CONCRETE
 CG— CONCRETE STOOP
 CONC— CONCRETE
 CROW— CROWNS
 EX— EXISTING
 FR— FRAME
 MAC— MACADAM
 G— GATE
 GR— GROUNDRING
 PUE— PUBLIC UTILITY ESMT
 PIE— PUBLIC IMPROVEMENT ESMT

COLOR KEY:

(RED) — RECORD INFORMATION
 (BLUE) — IMPROVEMENTS

A Land Surveying Company

DULEY
and
Associates, Inc.

Elm Street, Upper Marlboro, MD 20772

Phone: 301-888-1111 Fax: 301-888-1114
Email: orders@duley.biz On the web: www.duley.biz



SURVEYOR'S CERTIFICATE

I HEREBY STATE THAT I WAS IN RESPONSIBLE CHARGE OVER THE PREPARATION OF THIS DRAWING AND THE SURVEY WORK REFLECTED HEREIN AND IT IS IN COMPLIANCE WITH THE REQUIREMENTS SETFORTH IN RELEVANT CHAPTERS OF THE 1973 EDITION OF THE CODE OF MARYLAND ANNOTATED REGULATIONS. THIS SURVEY IS NOT TO BE USED FOR THE PURPOSE OF THE ESTABLISHMENT, ALTERATION, OR CLOSING OF PROPERTY IMPROVEMENTS. THIS PLAT DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PREVIOUSLY EXISTING IMPROVEMENTS. SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR SECURING FINANCING OR REFINANCING. THIS PLAT IS OF BENEFIT TO A CONSUMER ONLY INsofar AS IT IS REQUIRED BY A LENDER OR A TITLE INSURANCE COMPANY OR ITS AGENTS IN CONNECTION WITH THE CONTEMPLATED TRANSFER, FINANCING OR REFINANCING. NO TITLE REPORT WAS FURNISHED TO NOD DONE BY THIS COMPANY. SAID PROPERTY SUBJECT TO ALL NOTES, RESTRICTIONS AND EASEMENTS OF RECORD. BUILDING RESTRICTION LINES AND EASEMENTS MAY NOT BE SHOWN ON THIS SURVEY. ANY LINES WHICH IN THE SURVEYOR'S OPINION APPEAR TO BE IN A STATE OF DISPAIR OR MAY BY CONSIDERED "TEMPORARY" MAY NOT BE SHOWN. IF IT APPEARS ENCROACHMENTS MAY EXIST, A BOUNDARY SURVEY IS RECOMMENDED.

DULEY & ASSOC.
WILL GIVE YOU A 100%
FULL CREDIT TOWARDS
UPGRADING THIS
SURVEY TO A
"BOUNDARY/STAKE"
SURVEY FOR ONE
YEAR FROM THE DATE
OF THIS SURVEY.

EXH. # 2
V-69-21