



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

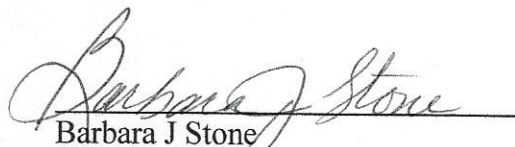
OF BOARD OF APPEALS

RE: Case No. V-89-21 Abel Trejo

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: October 6, 2021.

CERTIFICATE OF SERVICE

This is to certify that on December 20, 2021, 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: Abel Trejo

Appeal No.: V-89-21

Subject Property: Lot 34, Block 2, Seabrook Subdivision, being 9305 4th Street, Lanham, Prince George's County, Maryland

Counsel for Petitioner: Anu Kemet, Esq.

Witnesses: Mery Ochoa, Petitioner son-in-law.

Heard: September 15, 2021 and Decided: October 6, 2021

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Albert C. Scott, Vice Chairman

Board Member Absent: 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) prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking. Section 27-120.01(c) prescribes that no parking space, parking area, or parking structure other than a driveway no wider than its associated garage, carport, or other parking structure may be built in the front yard of a dwelling in the area between the front street line and the sides of the dwelling. Section 27-420(a) prescribes that fences in the front yard shall not be more than four (4) feet high without the approval of a variance¹. Petitioner is proposing to validate existing conditions (net lot coverage, waiver of parking area and obtain a building permit for unauthorized constructions of driveway extension in front of the house, garage and fence. Variances of 3.9% net lot coverage 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 1988, contains 17,500 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway, circular driveway surrounding dwelling, detached garage, carport, covered stoop and covered breezeway. Exhibits (Exhs.) 2, 3, 7, 8 9 (A) thru (F).
2. Petitioner is proposing to validate existing conditions (net lot coverage, waiver of parking area and obtain a building permit for unauthorized constructions of driveway extension in front of the dwelling, garage and wooden fence. Due to Petitioner constructing the driveway extension, detached garage and fence, the lot coverage is over the maximum allowable lot coverage, a variance of 3.9% is required. Due to the driveway expansion into the front the dwelling, a waiver of the parking area location is required. Exhs. 2, 3, 7, 8 9 (A) thru (F).

¹ Section 27-420(a) prescribes that fences in the front yard shall not be more than four (4) feet high without the approval of a variance. The Board has determined that this variance is not required as the fence is not located in the front yard. Exh. 2.

3. Mr. Mery Ochoa testified that Petitioner purchased the property in 2006 and discovered water run off coming from the east side of the property causing and creating so much mud that he added concrete in 2019 to mitigate the problem and enable use of that (muddy) portion of the property. Exhs. 2, 4 (A) thru (F).

4. The County inspection of the property resulted in issuance of Correction Order #19322-2-2019, which construction of the drive extension, extended garage and patio steel frame roof. Exh. Exhs. 2, 4 (A) thru (F).

5. Mr. Ochoa stated that the county inspector advised him to obtain any required permits.

6. Mery Ochoa contended that the Petitioner is running a business out of the garage, which he says is essentially a one-story block building, without a use and occupancy permit. He stated that a permit is also required for the garage extension and explained that the dwelling and the garage are connected by a cover built over the steps. Exhs. 2, 4 (A) thru (F).

8. Mr. Ochoa further stated that the garage is for storage of gutters, down spouts, small coils of metal for Mr. Trejo's roofing business. Exhs. 2, 4 (A) thru (F) and 15.

9. Counsel Anu Kemet stated that the garage is used to keep materials but is not used to operate a business. Exhs. 2, 4 (A) thru (F) and 15.

10. Petitioner Abel Trejo testified that he added concrete to the driveway 3 years ago to abate water issues and provide a (non-muddy) area for his children. He acknowledged that that building permits were not obtained for the work. Exhs. 2, 4 (A) thru (F).

11. The garage appears to be two stories in height and detached from the dwelling. Exhs. 2, 4 (E) and 15 (k).

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

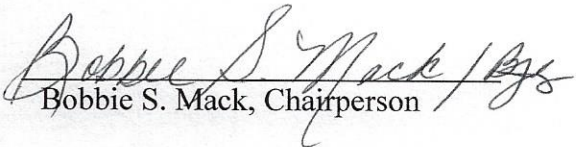
After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variances does not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The Board finds evidence indicating that a water problem existed on the subject property for which concrete was poured to mitigate the condition that contributed to the overage in net lot coverage. No evidence was submitted that the extensive concrete was appropriate to obviate the water issue of the property owner. Indeed, the Board notes that the pouring of the concrete (without permits and inspection) was not in compliance with County regulations (and grading) and a corrective order was issued that highlighted the existence of concrete.
2. The Board remains concerned with whether the water flow concrete solution is producing any water flow into neighboring properties.

3. The Board is troubled that the unauthorized construction of the garage extension has created an accessory building² which is not subordinate in size to the main structure being the house. The Board notes that because the breezeway connecting the garage to the dwelling is not wholly enclosed, the accessory building cannot be considered part of the main structure.
4. Finally, the Board is also concerned with whether the extensive outlay of concrete on the subject property is consistent with the (residential) intent, purpose and integrity of the General Plan or Master Plan.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Anastasia Johnson absent, that Variances of 3.9% net lot coverage and a waiver of the parking area location requirement in order to validate existing conditions (net lot coverage, waiver of parking area and obtain a building permit for unauthorized constructions of driveway extension in front of the house, garage and fence on the property located at 9305 4th Street, Lanham, Prince George's County, Maryland, be and are hereby DENIED.

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 27-234 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.

²See Section 27-107.01 – Definitions (a) (30) Building, Accessory: A "Building" *subordinate* to, and located on the same lot with, a "Main Building," and used for an accessory use. See Lot Coverage worksheet. Exh. 16.