



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-109-21 Armando Reyes Hernandez

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 3, 2021.

CERTIFICATE OF SERVICE

This is to certify that on March 7, 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".

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: Armando Reyes Hernandez

Appeal No.: V-109-21

Subject Property: Lot 11, Block 57, District Heights Subdivision, being 6913 Foster Road, District Heights,
Prince George's County, Maryland

Witnesses: Walter Bart, Friend

Eddy Reyes, Petitioner's Son

Spanish Language Interpreter: Ernesto Luna

Heard: October 20, 2021; Decided: November 3, 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 a variance from Section 27-442(d)(Table III) prescribes that each lot shall have a minimum width of 65 feet measured along the front building line. Section 27-442(i)(Table VIII) prescribes that accessory buildings shall be set back 2 feet from any side or rear lot line. 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. Petitioner proposes to validate existing conditions (front building line; accessory building (shed on the western property line.) and obtain a waiver of the parking area requirements for a building permit for the construction of a driveway. Variances of 33 feet front building line width¹ and 2 feet rear lot line setback, 1-foot side lot line setback, and a waiver of the parking area location requirement were requested.

Evidence Presented

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

1. The property was subdivided in 1959, contains 6,760 square feet, is zoned R-55 (One-Family Detached Residential), and is improved with a single-family dwelling and two sheds. Exhibits (Exhs.) 2 (A) thru (B), 3, 8, 9 and 10 (A) thru (F).
2. The subject property is rectangular with the front yard width narrow at 50 feet and expanding towards the rear yard. The side lot lines are angled out toward the rear. Exhs. 2 (A) thru (B), 3, 8, 9 and 10 (A) thru (F).
3. Petitioner proposes to validate existing conditions (front building line width, location of the accessory building (shed) on the western property rear corner), obtain a waiver of the parking area requirements and obtain a building permit for the construction of a driveway. A variance of 15 feet front building line width is required as the Zoning Ordinance requires 65 feet, and the actual width of the front

¹ Correction - The correct variance calculation for front building line width is 15'. Section 27-442(d)(Table III) prescribes that each lot shall have a minimum width of 65 feet measured along the front building line.

building line is only 50 feet. The preexisting location of the shed on the western portion of the property requires variances of 1 foot side yard and 2 feet rear lot line setback. Because the proposed parking area will be located in front of the dwelling, a waiver of the parking front yard area is required. Exhs. 2 (A) thru (B) and 4 (A) thru (F).

4. Eddy Reyes stated that his father's intention is to construct a driveway to park two vehicles. The initial proposed driveway dimensions are 18' in width x 26' in length. Exhs. 2, (A) thru (B), 4 (A) thru (F).

5. Armando Reyes testified that there are other driveways in the community, including a double driveway on the adjoining property to the left of the subject property. Exhs. 2 (A) thru (B) and 4 (A) thru (F).

6. Walter Bart testified that a utility pole inhibits Mr. Reyes from constructing a driveway on the left side of the property. Exhs. 2 (A) thru (B) and 4 (A) thru (F).

7. The Board recommended narrowing the driveway to a one-car driveway.

8. Petitioner submitted a revised site plan reducing the driveway dimensions to 12' in width x 28' in length.² Exh. 16

9. Mr. Eddy Reyes stated that the Foster Road is very narrow, most of the neighbors have driveways and the proposed driveway is in character with the neighborhood. Exhs. 2 (A) thru (B), 4 (A) thru (F).

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 narrow at 50 feet in the front yard, a utility pole inhibits Mr. Reyes from constructing a driveway on the right side (from the street) of the property, the need for off-street parking, many driveways exist in the community 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, by majority vote, Ms. Anastasia Johnson absent, that variances of 15 feet front building line width, 2 feet rear lot line setback, 1-foot side lot line setback, and a waiver of the parking area location requirement in order to validate existing conditions (front building line, accessory building (shed)) and waiver of the parking area requirements to obtain a building permit for the construction of a driveway, on the property located at 6913 Foster Road, District Heights, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 16.

² The site plan submitted did include Site Road Apron approval.

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.

