

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-108-11 Kirt & Danielle Bakos

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 7, 2011.

CERTIFICATE OF SERVICE

This is to certify that on January 26, 2012, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed) _____
Anne F. Carter
Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DER/Building Code Official, Permits & Review Group
DER/Licenses & Inspections Group
Office of Law
Other Interested Parties

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

Petitioners: Kirt & Danielle Bakos

Appeal No.: V-108-11

Subject Property: Lot 10, Block F, Williamsburg Estates Subdivision, being 9805 Williamsburg Drive,
Upper Marlboro, Prince George's County, Maryland

Witnesses: Dorothy Lowe, President of Williamsburg Estates Citizens Association and neighbor
George Potts, Vice President of Williamsburg Estates Citizens Association and neighbor

Heard and Decided: December 7, 2011

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, Petitioners request that the Board approve variances from Section 27-442(c)(Table II), which prescribes that not more than 25% 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 60 feet from the front street line and generally be located only in the rear yard (or in the yard opposite the front of the building). Petitioners propose to validate and obtain a building permit for a detached garage. Variances of an additional 4.1% net lot coverage, 44 feet front street line setback and a waiver of the rear yard location requirement for an accessory building are requested.

Evidence Presented

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

1. The property was subdivided in 1967, contains 10,604 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, detached garage, driveway and two sheds. Exhibits ("Exhs.") 2, 4, 9-10. The existing dwelling was built in 1990. Exh. 10.
2. The property is a regular-shaped corner lot at the intersection of Williamsburg Drive and Churchill Drive. The house faces Williamsburg Drive, which is the legal side street. Exh. 2.
3. Petitioners would like to validate certain existing conditions and obtain a building permit for a 12' x 36' detached garage. Since the allowed amount of net lot coverage is exceeded by development on the property and the garage is 16 feet from the front street line and located beside the house, a variance of an additional 4.1% net lot coverage, a variance of 44 feet front street line setback and a waiver of the rear yard location requirement for an accessory building were requested, respectively. Exhs. 20-21.
4. The Board approved variances in 2009 (Appeal No. V-45-09), including a variance of 2.1% net lot coverage, to validate certain existing conditions, but denied Petitioners' request to validate the detached garage. Exhs. 6 and 17.

5. Petitioner Danielle Bakos testified that the garage is used to protect her vehicles. She explained that she had a permit for the garage, but not for its current location and size. She stated that she could not put it in the approved location because of the location of trees. Exhs. 25(B)-(L), 26.

6. Dorothy Lowe, on behalf of the Williamsburg Estates Citizens Association, opposed the request. Ms. Lowe testified that the location of the garage is not what is shown on the approved site plan for the garage permit. She stated that the residents should comply with County regulations. She testified that Petitioners' garage is out of character with the neighborhood.

7. George Potts, testified that he lives "five doors down" from Petitioners and opposes the request.

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 do not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The detached garage is located only 16 feet from the front street line rather than the required 60 feet and is located in the legal front yard, not in the rear yard or yard opposite the designated front of the house as required by Section 27-442(i)(Table VIII) of the Zoning Ordinance.

2. Section 27-442(c)(Table II) of the Zoning Ordinance allows 25% net lot coverage on the property, that lot coverage allowance is already exceeded by driveway area and structures other than the garage, and permitting the detached garage would cause that amount to be further exceeded. The existing coverage of net lot coverage on the property is 2.1% and the additional coverage would be 4.1 %.

3. The subject property is a regular-shaped lot. Petitioner contends that the lot contains trees that preclude relocation of the garage to a more suitable location. The Board finds, however, that there has been no evidence of change in the situation of Petitioners, the conditions of the subject property, or the character of the neighborhood since the variances were denied in 2009 in Appeal No. V-45-09. Moreover, Petitioner has provided no evidence that removal of any trees on the subject property was prohibitive and constituted such an unusual practical difficulty or an exceptional or undue hardship.

4. In addition, the Board finds that the current location of the disputed garage is out of character with the neighborhood. The garage is a large, free-standing garage on a corner lot located on a main thoroughfare into the neighborhood.

BE IT THEREFORE RESOLVED, unanimously, that variances of an additional 4.1% net lot coverage, 44 feet front street line setback and a waiver of the rear yard location requirement for an accessory building in order to validate and obtain a building permit for a 12' x 36' detached garage on the property

located at Lot 10, Block F, Williamsburg Estates Subdivision, being 9805 Williamsburg Drive, Upper Marlboro, Prince George's County, Maryland, be and are hereby DENIED.

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 27-234 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.