

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-15-10 Jaime Cartagena

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: July 21, 2010.

CERTIFICATE OF SERVICE

This is to certify that on August 9, 2010, 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: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DER, Building Code Official, Permits & Review Div.
DER, Licenses & Inspections Div.
Office of Law

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

Petitioner: Jaime Cartagena

Appeal No.: V-15-10

Subject Property: Lot 1, Block 1, Knollwood Estates Subdivision, being 10507 Floral Drive, Hyattsville,
Prince George's County, Maryland

Interpreter: Evelyn Cartagena

Heard: July 7, 2010; Decided: July 21, 2010

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 27-120.01(c) of the Zoning Ordinance, which 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 and obtain a building permit for existing driveway and covered porch extensions. A waiver of the parking area requirement is requested.

Evidence Presented

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

1. The property was subdivided in 1962, contains 10,898 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling and driveway. See Exhibits ("Exhs.") 2-3, 9-10. The property was improved with a single-family dwelling in 1962. See Exh. 9.
2. The property is an odd-shaped corner lot with the house facing the corner. See Exhs. 2, 11(A)-(E). The existing driveway accesses Floral Drive very close to the intersection. See Exh. 2.
3. Petitioner was cited with Violation Notice No. BVN 23866-09-01 ("Violation Notice"), dated August 28, 2009, by the Licenses and Inspection Division of the Department of Environmental Resources, requiring that a building permit be obtained for widening of the driveway and porch areas or remove them and restore the area to its original condition. See Exh. 6.
4. Petitioner would like to obtain a building permit to come into compliance, but a variance is needed to validate a 10' x 40' extension to the original 10' x 45' driveway. Since the driveway extension is located in front of the house in a location prohibited by Section 27-120.01(c), a waiver of the parking area requirement was requested. See Exhs. 12, 16.

5. The Board previously approved a variance (Appeal No. V-154-06) for part of the driveway extension, but no building permit was ever obtained. See Exh. 8.

6. Petitioner testified that the driveway and porch existed when he purchased the property a year ago and that he did not realize a violation existed until he received the Violation Notice. He stated that the entire driveway is needed for parking.

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 unusual shape of the property, the property being a corner lot, the house facing towards the corner, the location of the house on the lot, the driveway and porch preexisting before Petitioner purchased the property, an extension for the driveway being previously approved in Appeal No. V-154-06, the need for off-street parking, the driveway accessing the street very close to the intersection, 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 a waiver of the parking area requirement in order to validate and obtain a building permit for existing driveway and covered porch extensions on the property located at Lot 1, Block 1, Knollwood Estates Subdivision, being 10507 Floral Drive, Hyattsville, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2.

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 27-233(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.