

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-189-06 Khanh & Ana Ngo

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: August 19, 2009.

CERTIFICATE OF SERVICE

This is to certify that on September 16, 2009, 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 Div.
DER, Licenses & Inspections Div.

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

Petitioners: Khanh & Ana Ngo

Appeal No.: V-189-06

Subject Property: Lot 10, Block B, Pleasant Acres Subdivision, being 3226 Powder
Mill Road, Hyattsville, Prince George's County, Maryland

Heard: October 25, 2006; Decided: August 19, 2009

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; 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; and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 2 feet from any side lot line and generally be located only in the rear yard. Petitioners propose to validate existing conditions and obtain a building permit for new driveway area in the front yard. A variance of 2% net lot coverage, a waiver of the parking area requirement, and a variance of 2 feet side lot line setback and a waiver of the rear yard location requirement for a shed are requested.

Evidence Presented

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

1. The property was subdivided in 1961, contains 13,211 square feet, is zoned R-R and is improved with a single-family dwelling, driveway and shed. See Exhibits ("Exhs.") 2, 3 & 8.
2. Petitioners constructed a 25' x 26' driveway extension in the front yard, next to an existing 16' x 60' driveway, without obtaining a building permit. The Licenses and Inspections Division of the Department of Environmental Resources issued Violation Notice No. 27276-2006-0, citing Petitioners for enlarging the driveway without a permit and requiring that Petitioners obtain a building permit or remove the new portion of driveway area. See Exhs. 5 & 6.
3. To obtain a building permit for the new driveway area, variances are needed. With construction of the new driveway area, the allowable amount of net lot coverage is exceeded. A variance of 2% net lot coverage was requested. Because the new driveway area is located in the area of the front yard prohibited by Section 27-120.01(c), a waiver of that parking area requirement is also requested.

4. In order to obtain the building permit, the location of an existing shed must also be validated. Because the shed extends to the side lot line and is not located entirely in the rear yard, a variance of 2 feet side lot line setback and a waiver of the rear yard location requirement for an accessory building were requested to validate this existing condition.

5. Petitioner Khanh Ngo testified that the new driveway extension was needed to allow turn-around space so that cars parked on the property do not have to back out onto Powder Mill Road. He stated that it is dangerous to back out onto Powder Mill Road, which is a very busy highway, especially in the mornings.

6. Mr. Ngo further testified that several neighbors have similar paved turn-around areas next to their driveways.

7. Mr. Ngo stated that the yard behind his house has a downward slope.

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 comply with the applicable standards set forth in Section 27-230, more specifically:

Due to existing conditions on the property, the sloping topography of the yard behind the house which inhibits the location of a shed in the rear yard, the property fronting on Powder Mill Road, Powder Mill Road being a heavily-traveled thoroughfare, the driveway extension providing turn-around area that allows front-first entry onto Powder Mill Road, 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 owners of the property.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Mack abstaining, that a variance of 2% net lot coverage, a waiver of the parking area requirement, and a variance of 2 feet side lot line setback and a waiver of the rear yard location requirement for a shed in order to validate existing conditions and obtain a building permit for new driveway area in the front yard on the property located at Lot 10, Block B, Pleasant Acres Subdivision, being 3226 Powder Mill Road, Hyattsville, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 2.

BOARD OF ZONING APPEALS

By: (Original Signed)
Albert C. Scott, Vice Chairman

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.