


*NOTICE OF FINAL DECISION
OF BOARD OF APPEALS*

RE: Case No. V-197-07 Claudia Villibord

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: February 27, 2008.

CERTIFICATE OF SERVICE

This is to certify that on March 13, 2008, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Anne F. Carter
Administrator

cc: Petitioner
Adjoining Property Owners
DER, Building Code Official, Permit & Review Div.
DER, Licenses & Inspections Div.
M-NCPPC, Permit Review Section

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

Petitioner: Claudia Villibord

Appeal No.: V-197-07

Subject Property: Lot 19, Block D, Radiant Valley Subdivision, being 6837 Standish Drive, Hyattsville,
Prince George's County, Maryland

Witnesses: Roman Villibord, Husband of Petitioner

Peter Henry, Adjoining Property Owner

Carolyn Robinson, Adjoining Property Owner

William Soper, Supervisor, Department of Environmental

Resources ("DER"), Licenses & Inspections Division

Edward Wormer, Building Inspector, DER

Heard: January 16, 2008; January 30, 2008

Decided: February 27, 2008

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 variances from Section 27-442(c)(Table II) of the Zoning Ordinance, which prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking, and Section 27-120.01(c), 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 new driveway. A variance of 6.5% net lot coverage and a waiver of the parking area requirement are requested.

Evidence Presented

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

1. The property was subdivided in 1946, contains 5,225 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. The existing house was built in 1947 (Exhibit 7).
2. Petitioner constructed a 15' x 52'/10' x 13' concrete driveway without a building permit for which he received Violation Notice No. BVN 42229-07-01 issued by the Department of Environmental Resources (DER). DER instructed her to obtain a building permit for the driveway or remove it (Exhibit 6).

3. To obtain the building permit, Petitioner must obtain a variance of 6.5% net lot coverage and a waiver of the parking area requirement because construction of the driveway caused the allowed amount of net lot coverage to be exceeded and part of Petitioner's driveway is located in an area of the front yard prohibited by Section 27-120.01(c) of the Zoning Ordinance.

4. Roman Villibord testified that since there was an existing driveway apron and gate when they purchased the property, he did not believe he needed a permit to construct the driveway. See Exhibit 5(A). He testified that the driveway slopes toward the street.

5. Petitioner testified that because the adjoining property to the rear sits slightly higher than her property, water often sits in her back yard behind the end of the new driveway. She testified that she intends on having the water pumped into the street.

6. Peter Henry, the owner of the adjoining property next to the new driveway, testified that before the driveway was constructed, Petitioner's runoff water ran directly into the street. He stated that now water backs up and is forced over onto his property because the driveway is so thick that there is nowhere for the water to run off. He testified that water has run twice into his kitchen on the side of his house next to Petitioner's driveway.

7. Carolyn Robinson, the owner of adjoining property to the rear of Petitioner's property, testified that due to a slope in Petitioner's yard, water has always settled in the rear yard of Petitioner's property. She testified that runoff water does not affect her property because it sits above Petitioner's property.

8. Edward Womer, the DER's building inspector who issued the violation notice to Petitioner, testified that Petitioner's driveway caused a water problem for Petitioner's neighbor, Mr. Henry.

9. Roman Villibord testified that additional drainage piping was installed when the driveway was built and his architect suggested connecting an existing sump pump to handle the runoff water.

10. Petitioner submitted a drainage plan which was reviewed by Inspector Womer and accepted by his neighbor, Mr. Henry (Exhibit 18).¹

11. The Subdivision Section of the Maryland-National Capital Park and Planning Commission reviewed the request with regard to the description of the property contained on the record plat of subdivision for Radiant Valley (BB 10 @ 87 – Lot 19, Block D). The Subdivision Section stated that the requested variance is not in conflict with the subject record plat because no new building development is proposed that is in conflict with the existing 25-foot building restriction line shown on the plat along Standish Drive.

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.

¹ Mr. Womer and his supervisor, William Soper, agreed to assist Petitioner's engineer in modifying Petitioner's drainage plan to make it acceptable.

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 the existing conditions on the property, the sloping topography of the property in relation to adjoining lots, Petitioner's proposed drainage plan for runoff water meeting the satisfaction of the affected neighbor and the County, 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 variance of 6.5% net lot coverage and a waiver of the parking area requirement in order to validate and obtain a building permit for a new driveway on the property located at Lot 19, Block D, Radiant Valley Subdivision, being 6837 Standish Drive, 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. A copy of the proposed drainage plan (Exhibit 18) has been made a part of the record and is herewith transmitted to the County's permit reviewers.

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.