

NOTICE OF FINAL DECISION


OF BOARD OF APPEALS

RE: Case No. V-198-07 Jose Guillen

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: January 30, 2008 .

CERTIFICATE OF SERVICE

This is to certify that on May 5, 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.
M-NCPPC, Permit Review Section
DER, Licenses & Inspections

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

Petitioner: Jose Guillen

Appeal No.: V-198-07

Subject Property: Lot 19, Block J, Calverton Subdivision, being 13216 Ronehill Drive, Beltsville,
Prince George's County, Maryland

Witness: Patricia Quimby, Adjoining property owner

Heard: January 16, 2008; Decided: January 30, 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 a variance 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. Petitioner proposes to validate and obtain a building permit for new driveway area. A variance of 8.7% net lot coverage is requested.

Evidence Presented

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

1. The property was subdivided in 1963, contains 8,452 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway.
2. The property is average in its size in relation to other lots in the neighborhood (Exhibit 3).
3. Without obtaining a building permit, Petitioner enlarged the existing 10' x 25' driveway by over 1,500 square feet, extending it along the left side of the house and into the rear yard.
4. On August 3, 2006, Violation Notice No. 32941-2006 was issued by the Licenses and Inspections Division of the Department of Environmental Resources, requiring Petitioner to either obtain a building permit for the driveway extension or remove it. When Petitioner had not taken corrective action by April 2007, the County filed for injunctive relief and an Order to Show Cause was issued by the Circuit Court for Prince George's County on October 9, 2007 (see Exhibit 5, with attached affidavit and violation notice). On December 19, 2007, Petitioner signed a Consent Order agreeing to correct the violations within 180 days (Exhibit 15).
5. Petitioner testified that when he purchased the property in January 2006 through the National Homebuyers Association, the driveway enlargement was included in the purchase agreement because he wanted a large driveway for his five cars.
6. Petitioner testified that when he attempted to obtain a building permit on November 7, 2007 (see Exhibit 6), he was informed that a variance was required. Petitioner then filed a variance application

with the Board. Since construction of the additional driveway area caused the allowed amount of net lot coverage to be exceeded, a variance of 8.7% net lot coverage was requested.

7. Patricia Quimby, owner of adjoining property (Lot 20), supported Petitioner's request.
8. Calverton Citizens Association opposed the request (Exhibit 13).

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

1. The Board finds that Petitioner's lot has no exceptional topography or other conditions peculiar to the property. The Board further finds that the lot is regular in its size and no evidence of any extraordinary situation or uniqueness of the lot was presented. See, Exhibits 2 & 3.
2. Because the conditions of the property are ordinary, the Board does not deem it necessary to consider the other requirements of Section 27-230.
3. The Board notes that the entire concrete area in the rear yard is used as driveway area (see Exhibit 4 photos), and unless a barrier of some kind is installed to prevent parking on any patio area, all the concrete area in the rear yard will be included in lot coverage.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 8.7% net lot coverage in order to validate and obtain a building permit for new driveway area on the property located at Lot 19, Block J, Calverton Subdivision, being 13216 Ronehill Drive, Beltsville, Prince George's County, Maryland, be and is 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.