

NOTICE OF FINAL DECISION


OF BOARD OF APPEALS

RE: Case No. V-34-08 Moises Perla

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: May 21, 2008 .

CERTIFICATE OF SERVICE

This is to certify that on June 10, 2009 , 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
Licenses & Inspections Div., DER
Lewisdale Citizens Association
Other Interested Parties

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

Petitioner: Moises Perla

Appeal No.: V-34-08

Subject Property: Lot 3, Block G, Riggs Terrace Subdivision, being 2003 Van Buren Street, Hyattsville,
Prince George's County, Maryland

Translator: Sylvia Brown

Witness: Melissa Perla, daughter of Petitioner

Heard and Decided: May 21, 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 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, Petitioner requests that the Board approve variances from Section 27-442(i)(Table VIII) of the Zoning Ordinance, which prescribes that accessory buildings shall be set back 2 feet from any side lot line, and 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 existing conditions and obtain a building permit for an existing driveway in the front yard. A variance of 2 feet side lot line setback for an accessory building 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 1951, contains 5,731 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed.
2. The property is not exceptional in shape or size (Exhibits 3, 10(a) & 21). The house is located closer to the left side of the lot, leaving only an 8-foot-wide side yard on that side. The side yard to the right of the house is much wider, varying from between 16 and 27 feet in width. See Exhibit 21.
3. Petitioner obtained Building Permit 37380-2003-00 in November 2003 to construct a 12' x 29' driveway (Exhibits 6 & 7(a)&(b)) but constructed instead a driveway approximately 20' x 28'^{1/2}, a portion of which is located in front of the house (Exhibits 4 & 21).

^{1/2} The width of the driveway could be considered 23 feet wide if the adjoining sidewalk is included in total parking area.

4. Section 27-120.01 prohibits driveway area in front of a dwelling other than an area no wider than an associated garage, carport or other parking structure (Exhibit 14).

5. On February 5, 2008, the Department of Environmental Resources, Licenses and Inspections Division, issued Violation Notice BVN 3861-08-00, requiring that Petitioner comply with the approved application and approved documents for which the 2003 building permit was issued (Exhibits 5 & 7(a)&(b)). Since Petitioner's driveway was not constructed in accordance with the permit, the current prohibition in Section 27-120.01 applies to his construction (Exhibit 15). As such, Petitioner must either validate the existing driveway (requiring the requested variance) and obtain a revised building permit, or remove enough driveway area to conform to the terms of the permit.

6. Petitioner is requesting a waiver of the parking area requirement and validation of the existing driveway.

7. In addition, when Petitioner submitted a site plan with the subject variance request, it was discovered that an existing 6' x 6.3' shed is located along the side lot line (Exhibit 21) for which a variance of 2 feet side lot line setback was also requested to validate the shed.

8. Petitioner testified that he originally applied for a driveway permit to park two cars and did not realize he had made an error in constructing the driveway. He acknowledged that on-street parking is permitted on his street.

9. Reeda Butler, an adjoining property owner, opposed the request (Exhibit 16).

10. Lewisdale Citizens Association opposed the request (Exhibit 17).

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 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 not exceptional in its size and shape and no evidence of any extraordinary situation or uniqueness of the lot was presented. (See, Exhibits 2 & 4).

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 since Petitioner did not construct his driveway in accordance with the approved permit in 2003, the driveway must be modified to comply with the approved permit and Section 27-120.01(c).

4. The Board further notes that if Petitioner needs a driveway either long enough or wide enough to accommodate two cars, Petitioner's right side yard is an alternative location for a driveway that meets the current regulations.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 2 feet side lot line setback for an accessory building and a waiver of the parking area requirement in order to validate existing conditions and obtain a building permit for an existing driveway in the front yard on the property located at Lot 3, Block G, Riggs Terrace Subdivision, being 2003 Van Buren Street, Hyattsville, 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.