

*NOTICE OF FINAL DECISION*  
*OF BOARD OF APPEALS*

RE: Case No. V-56-09 Robert Ammann & Heather Gent

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: September 9, 2009.

**CERTIFICATE OF SERVICE**

This is to certify that on October 19, 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.

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

Petitioners: Robert Ammann & Heather Gent

Appeal No.: V-56-09

Subject Property: Lots 1 & 2, Twin Ponds Subdivision, being 6122 Walton Avenue, Suitland,  
Prince George's County, Maryland

Witnesses: Helga Ammann, Widow of Robert Ammann (deceased)  
Robert Fastnaught III, Petitioners' contractor

Heard and Decided: September 9, 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 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, Petitioners request that the Board approve a variance from Section 27-442(i)(Table VIII) of the Zoning Ordinance, which prescribes that accessory buildings shall generally be located only in the rear yard. Petitioners propose to construct a detached garage and driveway. A waiver of the rear yard location requirement for an accessory building is requested.

Evidence Presented

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

1. The property was subdivided in 2001, contains 23,666 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a one-story single-family dwelling, a two-story single-family dwelling, a common concrete driveway, a gravel driveway and shed. The subject property consists of Lots 1 and 2.

2. Although the property fronts on Walton Avenue, a private right-of-way (the common concrete driveway) along the south side of the property serves as the main access.

3. Petitioners would like to convert the one-story single-family dwelling on Lot 1 into a detached garage that would serve as an accessory structure to the dwelling on Lot 2 and construct a new driveway to access the detached garage. The garage would be constructed using the existing 16.7' x 43.8' foundation and adding an extension to create a 30' x 44' structure. Because Petitioners intend on utilizing Lots 1 and 2 as one development site, the proposed garage would be located in front of the house and a waiver of the rear yard location requirement is needed to obtain a building permit.

4. The Board approved a waiver of the rear yard location requirement in February 2009 (Appeal No. V-117-08) for construction of a detached garage, but Petitioners decided that the 25.5' x

44' structure and 19' x 40' driveway previously proposed would not be sufficient. They now would like to construct a 30' x 44' garage and 27' x 35' driveway instead. Since the site plan was revised when the proposed footprints for the garage and driveway changed, Petitioners were required to refile for the variance.

5. Helga Ammann, authorized to administer the estate of Robert Ammann, explained that Heather Gent is her daughter, Robert Ammann is her late husband, and she was present at the hearing on behalf of Petitioners in the matter. See Exh. 6.

6. Robert Fastnaught, Petitioners' contractor, explained that the only changes made to Petitioners' proposal since the Board's previous variance approval are widening of the driveway and location of the addition on one side of the existing structure rather than on both sides.

7. Incorporated evidence from Appeal No. V-117-08 includes: The single-family dwelling is in disrepair and is to be razed. The existing slab will be enlarged and a garage built to store cars and yard equipment. The "shed" shown on the site plan is actually a children's playhouse and is to be removed. Residents of the houses on Lots 2 and 6 (across the common driveway) are mother and daughter, neither house has a garage and the proposed garage on Lot 1 will be shared. There is a downward grade in the rear and insufficient land on either side of the houses on Lots 2 and 6 to construct a garage. Utilizing the structure on Lot 1 as a garage allows construction of an attractive garage that will have the appearance of a house. The proposed garage would be constructed with the same building materials as the house on Lot 2 - same brick, roof and window details. The view from Walton Avenue is broken by a dense tree line and changes being made to the structure should not have any impact on the neighborhood. See Exh. 9.

8. Incorporated evidence from Appeal No. V-117-08 also includes: 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 Twin Ponds (CH191@91 - Lots 1 and 2). The Subdivision Section stated that there appears to be no subdivision problem with Lots 1 and 2 functioning as one development site. The Subdivision Section provided a portion of the staff report for preliminary plan of subdivision 4-98028 as part of its memorandum:

Dwelling units on this property have been built over time and stand now in violation of the Zoning Ordinance requirement that only one home can exist on each lot (Section 27-118.01). Drawing lot lines around these homes that meet setback requirements is a difficult task since the homes are close and access to each lot is problematic. The following variances to Zoning Ordinance standards are required:

\* \* \*

b. The existing structure on proposed Lot 2 is 17 feet from the private access easement. A 25-foot setback is required. The applicant requests a variance of eight feet.

\* \* \*

e. Finally, Lot 1 is shown with a frontage of 49.75 feet while 50 feet of frontage is required. Prior to signature approval, the preliminary plat should be revised to show Lot 1 with 50 feet of frontage. A variance of **three inches** is unnecessary. (Emphasis in original)

See Exh. 9.

9. In 1998, the Prince George's County Planning Board approved (PGCPB No. 98-259) the above-referenced variance and preliminary plat of subdivision with conditions, one of which states:

Proposed Lot 1 may be modified to include frontage on the private access easement. If this modification is made, notes shall be added to the final plat that Lot 1 shall have no direct vehicular access to Walton Avenue and that the private access easement serving Lot 1 is provided pursuant to Section 24-128(c) of the Subdivision Regulations.

See Exh. 8. The final plat of subdivision notes the variance approval and indicates that Lot 1 shall have no direct vehicular access to Walton Avenue. See Exh. 4.

#### 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 property being subdivided in 2001 to draw lot lines around existing structures, the topography of the property, the property being made up of two lots (Lots 1 and 2) accessed by a private access easement serving as a shared driveway, direct vehicular access to Walton Avenue being prohibited, the two abutting lots to be used as one development site being one behind the other, the front of the property being Lot 1 which fronts on the public right-of-way (Walton Avenue), the dwelling on Lot 1 being in disrepair and in need of reconstruction, the dwelling on Lot 2 (to the rear of Lot 1) having no garage and no space to add a garage, the dwelling on Lot 1 to be converted into the proposed garage, the proposed garage to be shared by the dwellings on adjoining Lots 2 and 6, the view from Walton Avenue being broken by a dense tree line, the design of the proposed garage giving the appearance of a dwelling, the proposed garage being constructed of brick and having the same roof and window details as the dwelling on Lot 2, 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, unanimously, that a waiver of the rear yard location requirement for an accessory building in order to construct a detached garage and driveway on the property located at Lots 1 & 2, Twin Ponds Subdivision, being 6122 Walton Avenue, Suitland, 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, and the approved elevation plans, Exhibit 3(A)-(D).

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.