

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-59-09 Stella Ayika

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: October 7, 2009.

CERTIFICATE OF SERVICE

This is to certify that on November 4, 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: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DER, Building Code Official, Permits & Review Div.
DER, Licenses & Inspections Div.
Other Interested Parties

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

Petitioner: Stella Ayika

Appeal No.: V-59-09

Subject Property: Lot 152, Resubdivision of Lot 126 and Part of Lot 101, Princess Gardens Subdivision,
being 6139 Princess Garden Parkway, Lanham, Prince George's County, Maryland

Witnesses: Domingo Ezirike, resident of subject property
MacPherson Awosika, neighbor

Heard: September 23, 2009; Decided: October 7, 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, Petitioner requests that the Board approve variances from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each corner lot shall have a minimum side yard along the side street at least 25 feet in depth, 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 existing conditions and obtain a building permit for a new circular driveway, a portion of which is in the front yard. A variance of 10 feet side street yard depth and a waiver of the parking area requirement for a driveway in the front yard are requested.

Evidence Presented

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

1. The property was subdivided in 1957, contains 11,141 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling and semi-circular driveway. The property was developed in 1960. See Exhibits ("Exhs.") 2, 3 & 6.
2. The property is a corner lot, located at the southeast corner of the intersection of Princess Garden Parkway and Spring Avenue. The house faces Princess Garden Parkway, the legal side street. See Exhs. 2 & 7.
3. Petitioner received Violation Notice 17373-2009-1 from the County's Department of Environmental Resources, requiring that Petitioner obtain a building permit for the driveway which is located in the front and side yards or remove the driveway. See Exh. 5.
4. Petitioner would like to obtain the required building permit for a new 16' x 79' semi-circular driveway, which extends across the property and accesses both Princess Garden Parkway and Spring

Avenue. See Exhs. 2 & 4. In order to obtain a permit, variances are needed for the driveway and to validate another existing condition on the property. Because a portion of the new driveway is located in an area of the front yard prohibited by Section 27-120.01(c), a waiver of the parking area requirement was requested. In addition, because the existing dwelling is located 15 feet from the side street line, a variance of 10 feet side street yard depth was requested to validate that condition. See Exhs. 1, 2 & 8.

5. Domingo Ezirike, who also lives at the subject property, testified that an unpaved circular driveway already existed when Petitioner purchased the property almost 7 years ago. He explained that the original driveway was gravel with parts of it overgrown with grass. He stated that when Petitioner received a notice from the County, both he and Petitioner understood it to mean that she was required to pave the driveway and paint the side of the house, but after they paved the driveway with asphalt, Petitioner received the violation notice requiring her to obtain a building permit. See Exhs. 5 & 15.

6. Petitioner testified that when she called the County about the violation notice, she was informed that she needed to cover the soil in the area of the driveway which she paved a few months ago.

7. Mr. Ezirike further testified that there is no traffic light or stop sign at the intersection next to the property and accidents occur frequently. See Exhs. 16(H)&(I). He testified that there are similar driveways in the neighborhood. See Exhs. 16(A)-(G).

8. MacPherson Awosika, a neighbor living across the street, testified that he has lived in his home for 26 years and opined that Petitioner should be able to keep the driveway because it is dangerous to pull into traffic at her corner. He stated that there are other neighborhood properties with similar circular driveways, including his property.

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 the property being a corner lot, the location of the existing house and circular driveway on the property, safety being a concern because there being frequent accidents at that corner where the property is located, there being other circular driveways in the neighborhood, 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 10 feet side street yard depth and a waiver of the parking area requirement for a driveway, a portion of which is in the front yard, in

order to validate existing conditions and obtain a building permit for a new circular driveway in the front yard on the property located at Lot 152, Resubdivision of Lot 126 and Part of Lot 101, Princess Gardens Subdivision, being 6139 Princess Garden Parkway, Lanham, 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)
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.