

*NOTICE OF FINAL DECISION*


*OF BOARD OF APPEALS*

RE: Case No. V-9-08 Lilowtie & Chanan Persaud

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: April 23, 2008 .

**CERTIFICATE OF SERVICE**

This is to certify that on May 28, 2008 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

  
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Anne F. Carter  
Administrator

cc: Petitioners  
Adjoining Property Owners  
DER, Building Code Official, Permit & Review Div.  
M-NCPPC, Permit Review Section  
Other Interested Parties

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

Petitioners: Lilowtie & Chanan Persaud

Appeal No.: V-9-08

Subject Property: Parcel 5 (per deed recorded at Liber 17402, Folio 51), being 14614 Old Stage Road, Bowie, Prince George's County, Maryland

Counsel for Petitioners: Keith A. Lotridge, Esq., Pitrof and Starkey, P.C.

Witnesses: James Reid, P.E., Civtech Designs, Inc.

David Peaks, Adjoining property owner

Rita Johnson, Sister of David Peaks

Heard: February 27, 2008; April 23, 2008

Decided: April 23, 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, Petitioners request that the Board approve a variance from Section 27-442(b)(Table I) of the Zoning Ordinance, which prescribes that each lot shall have a minimum net lot area of 40,000 square feet and Section 27-442(d) (Table III) of the Zoning Ordinance, which prescribes that each lot shall have a minimum width of 50 feet measured along the front street line. Petitioners propose to validate existing conditions and construct a new single-family dwelling and driveway. Variances of 4,015 square feet net lot area and 24.99 feet front street line width are requested.

Evidence Presented

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

1. The property contains 35,984 square feet (0.8261 acre), is zoned R-E (Residential-Estate) and is proposed to be improved with a new single-family dwelling and driveway. The property was created via a family conveyance deed recorded in 1988 (Exhibit 2(C)).
2. The property is odd-shaped, shaped somewhat like a gourd with a narrow neck where the driveway extends to a private ingress/egress easement leading to Old Stage Road. The proposed house would face the end of the driveway where it joins the easement, which serves a number of parcels (See Exhibits 18(a)&(b)).
3. Counsel for Petitioners explained that Petitioners purchased the property from a bank after the property had gone into foreclosure. Counsel stated that Mr. Persaud, who wants to build a new house for his family, was under the impression that the property was buildable and began the design process and

submission of permit applications. It was explained that approval was obtained from the Washington Suburban Sanitary Commission and it was not until Mr. Persaud hired an engineer to survey the lot for the final plan to be submitted to the County that he learned that because 40,000 square feet of net lot area is required to develop the R-E zoned lot, the lot is approximately 9.77% too small for development with a single-family dwelling.

4. The subject property was one of four parcels created by a family conveyance deed in 1988 (Exhibit 2(C)). Petitioners' engineer, James Reid, explained that had the property been created by a family conveyance prior to 1970, the subject parcel would exceed the 20,000 square foot minimum needed to develop the property under the regulations for the R-R (Rural Residential) Zone. See Exhibit 2. Mr. Reid testified that the proposed development does not require any lot coverage or setback variances.

5. Counsel for Petitioners further explained that since the rear of the property is next to railroad tracks and U.S. Route 50 (John Hanson Highway), the proposed development will have no impact on that side of the property. Counsel argued that the property is 200-300 yards from a cluster subdivision in which rather small lots have been developed with large homes, so the proposed dwelling on a much larger lot will not have any adverse affect on the neighborhood.

6. The parcel immediately to the west of the subject property is developed with a vacant, partially-constructed dwelling in foreclosure status.

7. Petitioner Chanan Persaud testified that he would pave his driveway only to the point where it met the shared gravel right-of-way and will help maintain it.

8. David Peaks, owner of adjoining vacant property to the north of Petitioners', had no objection to Petitioners' request.

9. The Subdivision Section of the Maryland-National Capital Park and Planning Commission ("M-NCPPC") reviewed the request. The Subdivision Section stated that the property (Exhibit 2(A)) is exempt from subdivision requirements pursuant to Section 24-107(c)(10) of the Subdivision Regulations. The Subdivision Section further stated that if the easement serving the property is approved by the Department of Public Works and Transportation ("DPW&T") pursuant to Section 24-128(c) of the Subdivision Regulations, it will meet the definition of a street, and based on Petitioners' site plan, the property does not meet the minimum 50 feet of frontage on the street for property located in the R-E Zone. See Exhibit 16.

#### 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 odd shape and small size of the property, the property being created in 1988 by a family conveyance deed, the property being exempted from subdivision requirements pursuant to Section 24-

107(c)(10) of the Subdivision Regulations, the property never being developed by the family member to which the property was conveyed, Petitioners purchasing the foreclosed-on property for the purpose of constructing a new house for their family, M-NCPPC stating that the private easement serving the property will meet the definition of a street once approved by DPW&T, the property not meeting the minimum requirements for net lot area and front street line width under the current regulations for the R-E Zone, Petitioners initially believing the lot was buildable until their engineer surveyed the lot and discovered otherwise, the rear of the property being located adjacent to railroad tracks and U.S. Route 50, a nearby cluster subdivision being developed with large homes on smaller lots, 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 variances of 4,015 square feet net lot area and 24.99 feet front street line width in order to validate existing conditions and construct a new single-family dwelling and driveway on the property located at Parcel 5 (per deed recorded at Liber 17402, Folio 51), being 14614 Old Stage Road, Bowie, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved revised site plan, Exhibit 18(a)&(b), and the approved elevation plans, Exhibit 4(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.