



THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

COUNTY ADMINISTRATION BUILDING, UPPER MARLBORO, MARYLAND 20772
TELEPHONE (301) 952-3220

NOTICE OF FINAL DECISION

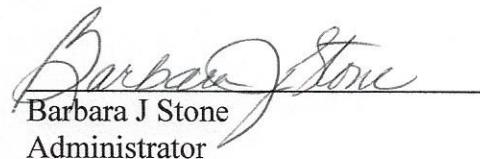
OF BOARD OF APPEALS

RE: Case No. V-24-20 Gayle and Leonard Upson, Sr.

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: February 24, 2021.

CERTIFICATE OF SERVICE

This is to certify that on April 8, 2021, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Barbara J. Stone
Barbara J Stone
Administrator

cc: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting

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

Petitioners: Gayle and Leonard Upson, Sr.

Appeal No.: V-24-20

Subject Property: Lots 72 & 73, Block C, Hyattsville Hills Subdivision, being 3905 Oliver Street,
Hyattsville, Prince George's County, Maryland

Municipality: City of Hyattsville

Witness: Kenneth Harrison, Inspector, Department of Permitting, Inspections and Enforcement (**DPIE**)

Heard: January 27, 2021; Decided: February 24, 2021

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 variances from Section 27-442(c)(Table II) that prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking. Section 27-442(i)(Table VIII) that prescribes that accessory buildings shall be set back 2 feet from any side or rear lot line. Petitioners propose to validate existing conditions (accessory building 2 feet from side and rear lot line/garage) and obtain a building permit for the unauthorized construction of the driveway extension. Variances of 14.9 % net lot coverage, 2 feet side lot line setback and 2 feet rear lot line setback for an accessory building (garage)¹ are requested.

Evidence Presented

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

1. The property was subdivided in 1925, contains 6,000 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, garage, pad and driveway extension. Exhibits (Exhs.) 2, 3, 8, 9 and 10 (A) thru (G).
2. The subject property is narrow and long at 50 feet in width x 120 feet in length, respectively. Exhs. 2 and 3.
3. Petitioners are requesting to validate the location of the garage, as the structure was on the corner property lines. Variances along both the rear and side property lines of 2 feet are required. With the addition of the garage and driveway extension, a variance of 14.9% lot coverage is required. Exhs. 2 and 4 (A) thru (K).
4. The Department of Permitting, Inspections and Enforcement issued a Correction order and placed a door tag on the Petitioner property. Exhs. 5 and 6.
5. Petitioner Leonard Upson explained that originally there was an existing dirt driveway on his property running from the street to the back of the house. He explained that while his neighbor was putting

¹ Section 27-563 of the Zoning Ordinance - Connection to street. Every parking lot (garage) shall be connected to a street by means of a driveway.

down gravel on his own driveway, he also scattered gravel on his dirt driveway without permission. He further stated that when the neighbor's house was renovated, gravel was put down on both driveways. Originally, there was a fence between the two adjoining driveways, but the construction trucks tore down the fence, making both driveways appear as one driveway. Now, there is no line or border to differentiate the two driveways. The gravel was laid, and it was extended approximately 10 feet from the house. The garage and the concrete pad in front of the garage (in the rear year) were existing when the property was purchased in 1999. Exhs. 2, 4 (A) thru (K).

6. Petitioners stated that they were unaware that the unplanned gravel on his property required a permit until they received a Correction Notice and Door Tag, 8 or 9 months after the gravel was laid. Exhs. 5 and 6.

7. Kenneth Harrison, Dpie Inspector, stated that when neighbors at 3903 Oliver Street extended their driveway, they also extended the driveway next door at 3905 Oliver Street (the Petitioners' driveway) making it look as if it were one large driveway. He stated that the original driveway was two dirt tire tracks that ran (along the side) in the front of the house of Petitioners, but the gravel extended the driveway from the street passing the house (and widening in the rear of the house). Inspector Harrison opined that the driveway is in character and stated that the only problem is that a permit is required for the work performed. Exh. 2.

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 preexistence of the corner location of the garage, preexistence of a driveway on the subject property, the unplanned extension of the driveway caused by a neighbor's gravel driveway construction, the street to driveway to garage requirement pursuant to Section 27-563 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 14.9 % net lot coverage, 2 feet side lot line setback and 2 feet rear lot line setback for an accessory building (garage) in order to validate existing conditions (accessory building /garage) and obtain a building permit for the unauthorized construction of the driveway extension on the property located at 3905 Oliver Street, Hyattsville, 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:


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.

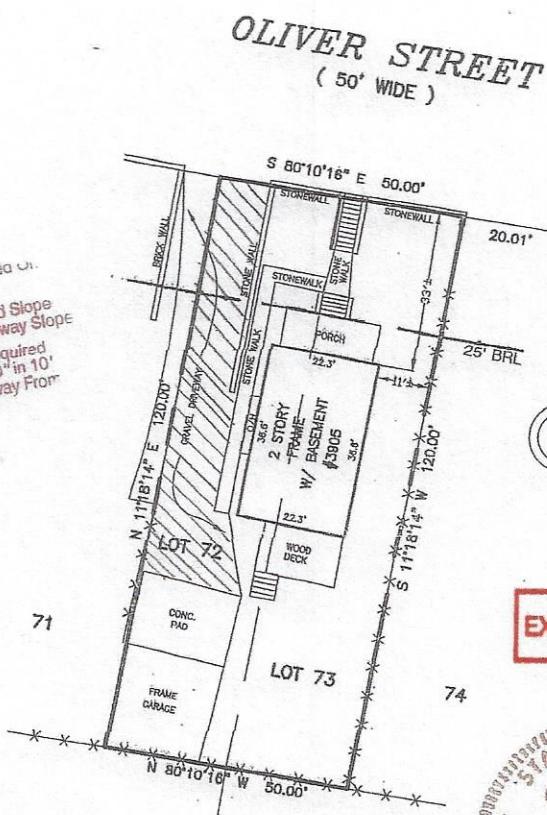
LOCATION DRAWING

SECTION NO.3

HYATTSVILLE HILLS
 LOTS 72 & 73 BLOCK "C"
 PRINCE GEORGES COUNTY, MARYLAND

NORTH

3% Maximum Slope allowed on Residential Property
 - 7% Maximum Parking Pad Slope and 12.5% Maximum Driveway Slope
 - 2.5% Minimum Slope Required on Yard or Lawn Areas, 10' in 10' Minimum Slope of Pad Away From Garage is Required.



EXH. # 2
 V-24-20



Approved for Soils, Grading and Drainage

By: *Alvarado* Date: *5/8/13 - 2020-0*
 Permit #: *5873-2020-0*
2-10-2020

PROPERTY ADDRESS: #3905 OLIVER STREET

THE PROPERTY SHOWN HEREON IS LOCATED IN ZONE C (AREA OF MINIMAL FLOODING) ACCORDING TO NATIONAL FLOOD INSURANCE PROGRAM F.I.R.M. MAP COMMUNITY PANEL NO. 24526 0025 G, AS REVISED JUNE 18, 1987

CMS

CENTRAL MARYLAND SURVEYORS, INC.

4319 NORTHEW DRIVE (301) 262-2500 FAX (301) 262-9878 BOWIE, MD 20716

CERTIFICATE		REFERENCES			
I HEREBY DECLARE THAT THE POSITION OF ALL THE VISIBLE EXISTING IMPROVEMENTS SHOWN ON THE ABOVE DESCRIBED PROPERTY HAVE BEEN ESTABLISHED BY PROPER FIELD METHODS.		PLAT BK. S.D.H. 3			
<i>Gary Dean Simpson</i>		PLAT NO. 20			
Red. MARYLAND Property Line Surveyor No. 514		LIBER 14227	DATES:	SCALE: 1" = 30'	
		FOLIO 476	WALL CHECK:	DRAWN BY: RAA	
			HSE. LOC.: 3-03-99	BOUNDARY:	JOB NO.: 0480-99

NOTES: 1) This location drawing is of benefit to a consumer only in so far as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or refinancing.
 2) This location drawing is not to be used for the building of fences or other improvements.
 3) This location drawing is not to be relied upon for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or refinancing.
 4) B.R.L. information, if shown was obtained from existing record plat or was provided to CMS, and is not guaranteed by CMS, Inc.
 5) Flood Zone information is subject to the interpretation of the originator.
 6) CMS, Inc. does not certify to unknown or unrecorded encroachments or overlaps.
 7) Level of accuracy $\pm 3'$.

APPROVED FEB 24 2021

ADMINISTRATOR