



THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

WAYNE K. CURRY COUNTY ADMINISTRATION BUILDING, LARGO, MARYLAND 20774
TELEPHONE (301) 952-3220

NOTICE OF FINAL DECISION OF BOARD OF APPEALS

RE: Case No. V-29-24 Mohammad Shalabi

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 25, 2024.

CERTIFICATE OF SERVICE

This is to certify that on January 29, 2025, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

Ellis Watson

Ellis Watson
Administrator

cc: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Traci Scudder, Esq., Scudder Legal

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

Petitioner: Mohammad Shalabi

Appeal No.: V-29-24

Subject Property: Lot 15 and 26, Block B, Lincoln Subdivision, being 5408 Center Avenue, Lanham, Prince George's County, Maryland

Counsel for Petitioner: Traci R. Scudder, Esq., Scudder Legal

Witnesses: Pamela Gray, Neighbor
Toni Barrett, Neighbor
Kimberly Jackson, Neighbor
Pamela Jay, Neighbor
Ceasar Hay, Neighbor

Heard: May 8, 2024, and June 20, 2024; Decided: September 25, 2024

Board Members Present and Voting: Bobbie S. Mack, Chairperson¹
Carl Isler, Vice Chair
Teia Hill, Member
Renee Alston, Member

Omar Boulware, Chairperson²
Phillippa Johnston, Vice Chair
Dwayne Stanton, 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 27-4202(c) prescribes that each lot shall have a minimum width of 80 feet measured along the front building line (lot width) and 70 feet measured along the front street line (lot frontage) and a maximum lot coverage of 25%. Variances of 30 feet lot width, 20 feet lot frontage, and 3.8% lot coverage are requested.

Evidence Presented

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

1. The property was subdivided in 1908, contains 5,400 square feet, is zoned RR (Residential, Rural) and is currently on a vacant lot. Exhibits (Exhs.) 5, 6 (A) thru (C), 8, and 10 (A) thru (F).

¹ Chairperson Mack was present and voted at the May 8, 2024, meeting; however, she was not present during the vote on V-29-24 on June 20, 2024.

² Pursuant to County Code Section 2-119, as amended by CB-017-2024, the County Council appointed new members to the Board of Appeals on July 16, 2024. Chair Boulware and Vice Chair Johnston were presented and voted at the September 25, 2024 Hearing. Board Member Stanton was not present at the final vote of V-29-24.

2. The subject property is a corner lot and is exceptionally narrow and small in size. Furthermore, the property contains an alley abutting the neighbors' houses creating a unique angle that is different than surrounding properties. Exhs. 3, 6 (A) thru (C), 9, 10 (A) thru (F), and 16.

3. Petitioner proposes to construct a two-story single-family dwelling and 10 x 28-foot driveway. Variances of 30 feet lot width, 20 feet lot frontage, and 3.8% lot coverage are requested. Exhs. 3, 4 (A) thru (D), and 12.

4. Traci Scudder, Attorney for the Petitioner, explained to the Board that the Lincoln subdivision has existed since 1908. Further, Ms. Scudder indicated that the Petitioner's property is one of the non-conforming lots in this residential community.

5. Additionally, Ms. Scudder assured that the Petitioner has a Site Development Plan approved by the Department of Permitting, Inspection, and Enforcement (DPIE). Exh. 16.

6. Several of the Petitioners' neighbors voiced opposition to the projected development. The main concerns of the neighbors centered around the development of the Petitioners' property would interfere with the community's green space and impair the enjoyment of their properties. The neighbors voiced that they live in a historic neighborhood. They expressed that the necessity for three variances demonstrates the lack of space on the lot to accommodate the size of the proposed construction and disputed that the lot in question is a corner lot. Also, the neighbors were concerned that the loss of trees due to the development of the Petitioners' property would lead to stormwater and flooding issues. Exh. 18.

7. In response to the neighbors' testimony, Chair Mack asked to see Exh. 6 (A) to gain an understanding of how development on the Petitioners' property would impact the surrounding houses. Exh. 6 (A) thru (C). Ms. Scudder clarified that the lot is on the corner of the alley, not a corner lot, and that the alley cuts into the lot.

8. The Petitioner, Mr. Shalabi, testified that the alley is not part of the development plans, and the vegetation will remain as a natural buffer between the neighboring properties. Further, Mr. Shalabi testified that DPIE would not issue permits if his development posed any drainage issues to the surrounding neighbors.

9. Chair Mack asked the neighbors when the last time a house was built in their community. The neighbors testified it was last year; however, a "covenant" is in place that development has to occur on 20,000 sq. ft. and development has to be a minimum of 10,000 sq. ft.

10. Administrator Stone testified and clarified that there is a difference between a "covenant" and the Prince George's County Zoning Ordinance ("Ordinance") requirements. Ms. Stone said the Petitioner does not need a net lot area variance as the Ordinance does not require it. Exh. 16.

11. Board Member Hill asked to see the elevation plans of the proposed development and sought clarification on the actual size of the house. Ms. Scudder confirmed that the size of the house is 5400 sq. ft. Exh. 4 (A) thru (D).

12. Attorney Scudder emphasized to the Board that if analyzing the aerial exhibits, the community has various lots in size, shape, and topography. Exh. 10 (A) thru (F).

13. The Petitioner, Mr. Shalabi reemphasized that the submitted Statement of Justification references County Code Provision 27.7403(a) that states the Code does not include a 10,000 sq. ft. requirement to build on a nonconforming lot in a residential zone. Exh. 16.

14. Ms. Barret testified that the Petitioner does not meet the requirements for a variance because the need for the variance is self-inflicted as a result of the Petitioner's knowledge of the size of the lot prior to purchasing the lot.

15. Chair Mack made a Motion to Hold Open for Technical Assistance and Seconded by Board Member Isler. Motion carried 4-0.

16. The Hearing for V-29-24 reconvened on June 20, 2024, with Vice Chair Isler, Board Members Alston, and Hill present.

17. Vice Chair Isler gave a brief synopsis of the case and mentioned the neighbors' concerns about stormwater runoff and erosion.

18. Administrator Stone says that any property that requires lot coverage will undergo the stormwater management and site roads review as performed by DPIE.

19. Administrator Stone further explained to the Board that there are no right-of-way issues impacting neighboring properties. Also, Ms. Stone emphasized that this property only needs lot coverage and not a lot area variance.

20. Administrator Stone also informed the Board that the Petitioner's property does not meet front street line coverage and this occurred due to the subdivision requirements and not the Petitioner. The Board further reviewed the property and determined it was irregular and severely angled.

21. Vice Chair Isler wanted clarification on what technical assistance was needed by the Board, and also time to digest the fifteen (15) letters of opposition.

22. Vice Chair Isler made the Motion to Hold Open and Seconded by Board Member Hill. Motion carried 3-0 to Hold Open.

23. The new Board, consisting of Chair Boulware, Vice Chair Johnston, and Board Member Stanton, conducted its first hearing on July 24, 2024, and decided to reschedule to September 25, 2024.

24. The Hearing reconvened on September 25, 2024 with Chair Boulware and Vice Chair Johnston in attendance.

25. Chair Boulware and Vice Chair Johnston reviewed the prior hearings and digested the binders containing all exhibits and evidence referring to case V-29-24.

26. Vice Chair Johnston read the letters of opposition that stated the house in the Petitioner's application should be built on a 20,000 sq. ft. lot. Vice Chair Johnston also referred to the binder that Petitioner's property is a non-conforming lot, and size of the lot would not matter as the lot is non-conforming.

27 Vice Chair Johnston made the Motion to Approve and Seconded by Chair Boulware. Motion carried 2-0.

Applicable Code Section and Authority

The Board is authorized to grant the requested variances if it finds that the following provisions of Section 27-3613(d) of the Prince George's County Zoning Ordinance are satisfied:

(d) General Variance Decision Standards

A variance may only be granted when the review board or official, as appropriate, finds that:

- (1) A specific parcel of land is physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness, shallowness, shape, exceptional topographic conditions, or other extraordinary conditions peculiar to the specific parcel (such as historical significance or environmentally sensitive features);
- (2) The particular uniqueness and peculiarity of the specific property causes a zoning provision to impact disproportionately upon that property, such that strict application of the provision will result in peculiar and unusual practical difficulties to the owner of the property.

- (3) Such variance is the minimum reasonably necessary to overcome the exceptional physical conditions.
- (4) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the General Plan or any Functional Master Plan, Area Master Plan, or Sector Plan affecting the subject property.
- (5) Such variance will not substantially impair the use and enjoyment of adjacent properties; and
- (6) A variance may not be granted if the practical difficulty is self-inflicted by the owner of the property.

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 27-3613(d), more specifically:

Due to the lot being developed in 1908, before the establishment of the Prince George's County Zoning Ordinance and Subdivision Regulations, the specific property is irregular in shape, narrow, and severely angled, making it physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness and topographic conditions. Additionally, the particular uniqueness and peculiarity would cause a zoning provision to impact disproportionately upon the property as the Petitioner's property is a non-conforming lot, and a variance for lot coverage net lot size is required for a variance. Further, the Board found no evidence in the record that this variance would substantially impair the intent, purpose and integrity of the general plan or any area master plan, sector plan, or transit district development plan affecting the property. Moreover, the prior Board and the current Board listened and read a copious amount of testimony that the variance would substantially impair the use and enjoyment of adjacent properties; however, under *Entzian v. Prince George's County*, 32 Md. App. 262, 360 A. 2d 6 (1976):

Zoning is not a plebiscite' and therefore testimony in opposition restricted solely to lay witnesses, petitions of objection to the proposal by residents, and testimony amounting to unsupported dislike and fear of (a) project, '...amounted to no evidence at all.

Lastly, the Board determined that the practical difficulty was not self-inflicted by the Petitioner, the Petitioner has not begun construction on the site, and the non-conforming lot allows for this development in the Lincoln Subdivision.

BE IT THEREFORE RESOLVED, by a 2-0 vote, Board Member Stanton being absent, that variances of 30 feet lot width, 20 feet lot frontage, and 3.8% lot coverage to obtain a building permit for a two-story single-family dwelling and 10 x 28-foot driveway located at Lot 15, Block B, Lincoln Subdivision, being 5408 Center Avenue, 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 3 and approved elevation plans, Exhibits 4 (A) thru (D).

BOARD OF ZONING APPEALS

By: 
Omar Boulware (Jan 13, 2025 11:22 EST)
Omar Boulware, Chairperson

APPROVED FOR LEGAL SUFFICIENCY

By: 
Keisha Garner, Esq.

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 27-3613(c)(10)(B) 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.

- [illegible]

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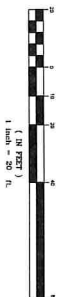
PROPERTY LINE      -----
EXISTING LOT LINES -----
                    .....
R/W BASE LINE      -----

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SOIL CHARACTERISTICS					
Map Symbol	Map Unit Name	K-Factor	Hydr. Rating	Hydrological Soil Group	Drainage Class
QaB	Colostown Urban (one complex 0-25 slopes	0.1	Non-Hydric	A	Somewhat Excess Drained
CdD	Christiana-Danvers-Urban Land 5-15% slopes	0.39	Non-Hydric	D	Moderately Well Drained

SOIL CHARACTERISTICS

GRAPHIC SCALE



EX CONGR

SOIL TYPE

LIMIT OF DISTURBANCE/ SILT FENCE
STABILIZED CONSTRUCTION ENTRANCE

PERMISSIONS

PERSONS	
DESIGNED: 25	DATE: 25/04/2023
DRAWN: 25	DATE: 25/04/2023
CHECKED: 25	DATE: 25/04/2023
APPROVED: 25	DATE: 25/04/2023

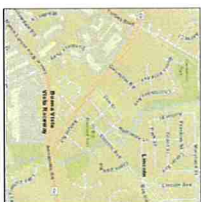
APPLIED CIVIL ENGINEERING

PLANNING * SURVEYING * LAND DEVELOPMENT
& PERMIT PROCESSING
9470 ANNAPOLIS ROAD, SUITE 414
LANHAM, MARYLAND 20706
TEL. (301) 459-5932

Lot 15

SITE ANALYSIS

1. Gross area of site= 5,400 SF
 2. Net area of site= 5,400 SF
 3. Gross floor area= 1,237 SF
 4. Total lot coverage= 28%
- Height of Dwelling at its Peak 21



BOARD OF APPEALS

APPROVED SEP 25 2024

Ellis Watson

ADMINISTRATOR

EXHIBIT

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V-29-24

SITE DEVELOPMENT AND LANDSCAPING PLAN

OWNER/APPLICANT/DEVELOPER

SITE DEVELOPMENT CONCEPT PLAN

Lot 15 Black "B"

LANHAM (20TH) ELECTION DISTRICT
PRINCE GEORGE'S COUNTY, MARYLAND

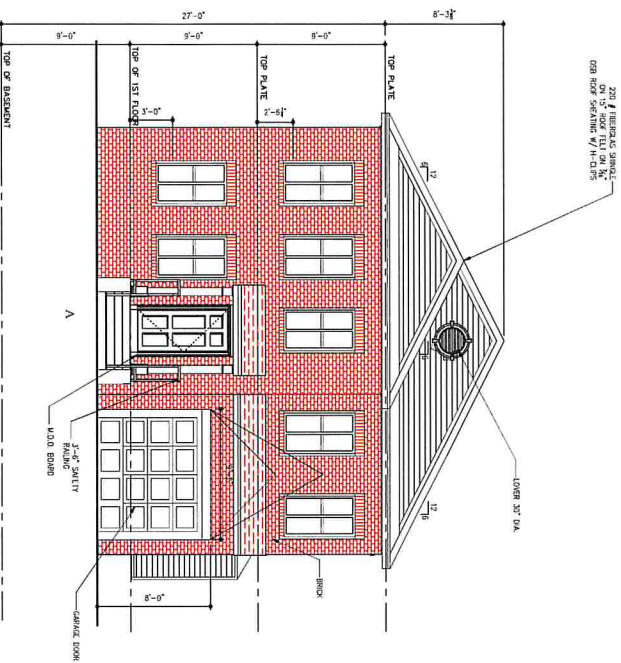
SHEET 1 OF 1

BOARD OF APPEALS

APPROVED SEP 25 2024

Ellis Watson

ADMINISTRATOR



1 FRONT ELEVATION
1/8\"/>

2 SIDE ELEVATION
1/8\"/>



Applied Civil Engineer
9470 Annapolis Road # 414
Lanham, Md. 20706

PROFESSIONAL CERTIFICATION
I hereby certify that these documents were prepared or
approved by me, and that I am a duly licensed
Professional Engineer under the laws of the State of
Maryland, License No. 21705, Expiration Date:
2023-09-04.

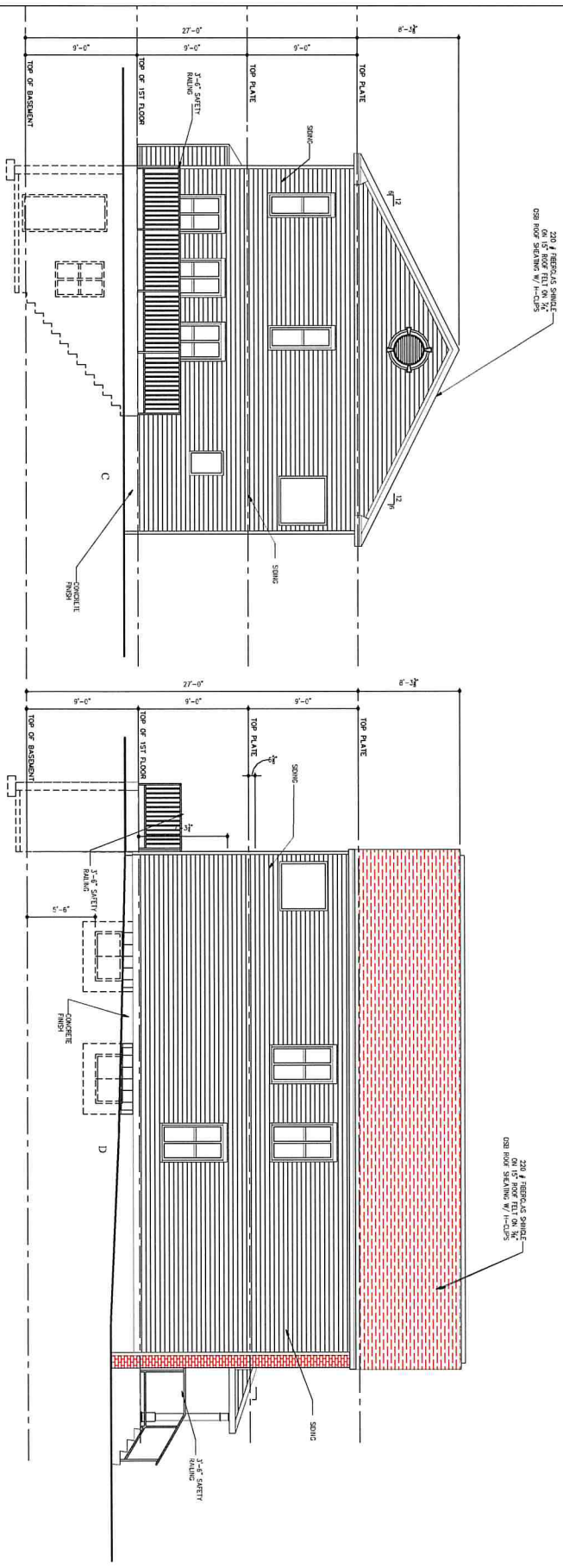
Project Name: LINCOLN
Drawing Title: Wall Sections & Electrical Plan

Owner: DEYAR LLC
6212 Seabrook Road
Lanham, MD 20706
Tel: 240 477-1912

Date: November, 2022
Scale: As Shown

SheetNo: A06

EXHIBIT
4 (A-D)
V-29-24



<p>Applied Civil Engineer 9470 Annapolis Road # 414 Lanham, Md. 20706 301 459-5932</p>	<p>PROFESSIONAL CERTIFICATION I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed Professional Engineer under the laws of the State of Maryland, License No. <u>21705</u>, Expiration Date: <u>2023-09-04</u>.</p>	<p>Project Name: LINCOLN Drawing Title: Elevations</p>	<p>Owner: DEVAR LLC 6212 Seabrook Road Lanham, MD 20706 Tel: 210 477-1912</p>	<p>Date: November, 2022 Scale: 1/4" = 1'-0"</p>	<p>Sheet No: A07</p>
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