

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-4-16 Daniel and Xiao Miller

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: March 9, 2016 .

**CERTIFICATE OF SERVICE**

This is to certify that on April 7, 2016 , 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  
DPIE/Building Code Official, Permitting

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

Petitioners: Daniel and Xiao Miller

Appeal No.: V-4-16

Subject Property: Lot 11, Block B, Arlene M. Ward's Resubdivision of Belle-Fonte Subdivision, being 8017  
Woodyard Road, Clinton, Prince George's County, Maryland

Heard and Decided: March 9, 2016

Board Members Present and Voting: 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 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. Petitioners propose to validate existing conditions and obtain a building permit for a new driveway in the front yard. Waivers of the rear yard location requirement for an accessory building and parking area location requirement are requested.

**Evidence Presented**

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

1. The property was subdivided in 1949, contains 31,075 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 3, 7 and 8. The existing dwelling was built in 1951. Exh. 7.

2. The property is an odd shaped lot. A 20-foot-wide private easement exists along the left side lot line. Utility lines cross the left side yard. Exh. 2.

3. Petitioners would like to obtain a building permit for a driveway (approx. 2,597 sq. ft.) in the front yard, but variances are needed before a permit may be issued. Since most of Petitioner's driveway is located in the area of the front yard prohibited by Section 27-120.01(c), a waiver of the parking area location requirement was requested. Exh. 11.

4. The location of an existing shed also needs to be validated to obtain the building permit. Since the shed is located in the side yard, a waiver of the rear yard location requirement for an accessory building was also requested. Exh. 11.

5. Petitioner Daniel Miller testified that he has lived at the subject property since 2009. He explained that after an addition on his house was completed for a home occupation<sup>1</sup> (an acupuncture

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<sup>1</sup> Section 27-107 (a)(118)(C) of the Zoning Ordinance states that a Home Occupation does not change the residential character or appearance of the dwelling or its primary residential use, nor does it have any exterior evidence, other than a permitted sign, to indicate that the dwelling is used for any but residential purposes.

practice) a County inspector conducted a final inspection and informed him that a parking lot was necessary. Petitioner explained that he already had a crushed rock driveway area, but the inspector instructed him to pave the driveway to meet "full commercial standards." He stated that he then placed asphalt over the bluestone driveway. He stated that the inspector instructed him to have the Maryland-National Capital Park and Planning Commission ("M-NCPPC") add the pavement to his plan. *Compare* Exhs. 4(A) thru (C) *with* Exhs. 9(B) thru (E). He explained that M-NCPPC then told him he did not need to put in the parking area because he was not subject to commercial standards for a home occupation.

6. Petitioner further stated that Woodyard Road is a busy road and the paved area provides an area on which to turn around vehicles. *See* Exhs. 4(A) thru (D); 9(F). He explained that one area had to be made larger because the inspector told him he had to have a handicap parking space to meet federal law (Americans with Disabilities Act). *See* Exhs. 2 and 5.

7. Mr. Miller believes that he would suffer undue hardship if the variance is not granted because he relied on the representation of the building inspector. He informed the Board that he only recently obtained a temporary use and occupancy permit after he had been forced to operate his business at another location.

#### 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 unusual shape of the property, driveway access to the property being directly off of Woodyard Road, Woodyard Road having heavy traffic, turn-around area being needed for vehicular safety, Petitioners having put in paved area over existing bluestone after receiving misinformation regarding the requirements for parking area for a home occupation, a variance for the driveway area in front of the house being needed to obtain a use and occupancy permit to operate the home occupation, the location of the existing shed needing validation, 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, by majority vote, Chairperson Bobbie Mack absent, that waivers of the rear yard location requirement for an accessory building and parking area location requirement in order to validate existing conditions and obtain a building permit for a new driveway (2,597 square feet) in the front yard on the property located at Lot 11, Block B, Arlene M. Ward's Resubdivision of Belle-Fonte Subdivision, being 8017 Woodyard Road, Clinton, 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.