

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-5-16 Jaime Escobar

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 23, 2016 .

CERTIFICATE OF SERVICE

This is to certify that on March 31, 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: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Inspections Division
City of Hyattsville
Other Interested Parties

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

Petitioner: Jaime Escobar

Appeal No.: V-5-16

Subject Property: Lot 43, Block 1, Holladay Company's Addition to Hyattsville Subdivision, being 5002
40th Place, Hyattsville, Prince George's County, Maryland

Municipality: City of Hyattsville

Spanish Language Interpreter: Mayra Garcia

Heard: March 9, 2016; Decided: March 23, 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, Petitioner requests that the Board approve a variance from Section 27-120.01(c) of the Zoning Ordinance, 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 and obtain a building permit for a driveway extension in the front yard. A waiver of the parking area location requirement is requested.

Evidence Presented

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

1. The property was subdivided in 1887, contains 8,835 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 3, 8 and 9. The existing single-family dwelling was built in 1992. Exh. 8.

2. The property is located within the Gateway Arts District Development Overlay Zone.

3. The property is a long and narrow lot, being 176 feet long and only 50 feet wide. The side yards on either side of the house are 7 feet wide. Exh. 2.

4. Petitioner was cited by the Department of Environmental Resources with Building Violation Notice BVN-4853-2009-01, dated February 27, 2009, and required to obtain the required permit for the driveway on the property or remove it. Attachment to Exh. 5.

5. In 2012, the Board approved a waiver of the parking area location requirement (Appeal No. V-49-12) to validate the location of the parking area in the front yard. Exh. 6. Petitioner never obtained a building permit for the construction and the variance expired. Petitioner testified that when the Board approved his previous variance request for the driveway, he did not understand that he had to obtain a building permit; he thought that the Board's decision was sufficient.

6. He explained that someone from the County has informed him that he must have a building permit for the construction and when he sought to obtain a permit he learned he had to secure a variance again.

7. Petitioner would like to obtain a building permit for the 8' x 36.6' driveway extension in the front yard, but a variance is needed to obtain the permit. Since the driveway extension 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. 12.

8. The City of Hyattsville did not take a position on the request for a variance for the location of the driveway. Exh. 21.

9. The Historic Preservation Section of M-NCPPC commented that the subject property is located within the Hyattsville Register History District (68-010) and that the variance request will have no effect on Historic Sites, Historic Resources or Historic Districts. Exh. 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 variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to existing conditions on the property, the narrowness of the property, the Board having previously approved the same variance to validate the existing driveway, there having been no change in conditions on the subject property affecting consideration of the variance request, 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(s) of the property.

BE IT THEREFORE RESOLVED, by majority vote, Chairperson Bobbie Mack abstaining, that a waiver of the parking area location requirement in order to validate and obtain a building permit for an 8' x 36.6' driveway extension in the front yard on the property located at Lot 43, Block 1, Holladay Company's Addition to Hyattsville Subdivision, being 5002 40th Place, Hyattsville, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance 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.