

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-11-16 Clementine and Lawrence Parker, Jr.

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 13, 2016 .

CERTIFICATE OF SERVICE

This is to certify that on May 9, 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
DPIE/Inspections Division
Town of Cheverly

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

Petitioners: Clementine and Lawrence Parker, Jr.

Appeal No.: V-11-16

Subject Property: Lot 9, Block A, Rea Addition to Cheverly Subdivision, being 6317 Joslyn Place,
Cheverly, Prince George's County, Maryland

Municipality: Town of Cheverly

Witnesses: Edna Ross-Dickens, neighbor

Lauren Clagett, Construction Standards Inspector, Department of Permitting,
Inspections and Enforcement ("DPIE")

Heard and Decided: April 13, 2016

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(e)(Table IV), which prescribes that each lot shall have a side yard at least 8 feet in width; Section 27-442(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking; 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 new concrete driveway area. Variances of 1.5 feet side yard width, 11% net lot coverage and a waiver of the 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 1953, contains 5,500 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.
2. The existing dwelling was built in 1953. Exh. 8.
3. Petitioners were cited with Building Violation Notice No. 4400-2016-0 ("Violation Notice"), dated January 4, 2016, by the Department of Permitting, Inspections and Enforcement, Inspections Division, requiring that the required permit(s) be obtained for work done (including an extended driveway) or the work be removed. Exh. 5.
4. Petitioners would like to validate and obtain a building permit for replacement of concrete driveway area (Exhs. 4(A) and (B), 21), but variances are needed to obtain the permit. Since part of the

replacement 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. 13.

5. To obtain a permit, certain existing conditions on the property must also be validated. Since the allowed amount of net lot coverage (30%) has been exceeded by existing development, a variance of 11% net lot coverage was also requested. Exhs. 12 and 13.

6. In addition, since the existing dwelling is only 6.5 feet from the left side lot line, a variance of 1.5 feet side yard width was also requested. Exh. 13.

7. Petitioner Lawrence Parker testified that before repaving with concrete, their contractor was informed by the County that a permit was unnecessary for the work performed. Exh. 22. He stated that when he first moved to the property in 1996 the driveway was all gravel that was repaved with concrete and the recent repaving was simply replacing concrete. He stated that the gravel repaved with concrete on the side of the house was used for walking and the area in the front yard is used as driveway.

8. Mr. Parker explained that because of health reasons (back injury) he has trouble traversing uneven surfaces and has fallen because of steps. *See* Exh. 23.

9. Lauren Clagett, DPIE County Inspector, testified that the Violation Notice was issued in response to a complaint that she believes was from the Town of Cheverly. She submitted aerial photographs taken in 1993 and 1998 to illustrate improvements made to Petitioners' driveway. *Compare* Exhs. 24 and 25.

10. Edna Ross-Dickens, a neighbor on adjoining property immediately to the left of Petitioners', testified that she has no objection to the requested variances.

11. The Town of Cheverly supported the request. Exh. 18.

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 existing conditions on the property, the house being built many years ago, gravel area on the property having been paved approximately 20 years ago, the current driveway area in the front yard having been used as driveway area for at least 20 years, Petitioner having trouble walking on uneven surfaces because of a back injury, variances for net lot coverage and front yard setback for the dwelling being needed for validation of conditions before a building permit may be obtained, 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 1.5 feet side yard width, 11% net lot coverage and a waiver of the parking area location requirement in order to validate existing conditions and obtain a building permit for new concrete driveway area (19' x 25' / 10' x 33') on the property located at

Lot 9, Block A, Rea Addition to Cheverly Subdivision, being 6317 Joslyn Place, Cheverly, 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.