

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-14-16 Salvador Hernandez

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 2, 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
Ernesto Luna, Spanish Language Interpreter

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

Petitioners: Salvador Hernandez

Appeal No.: V-14-16

Subject Property: Lot 21, Block 1, Lanham Wood Subdivision, being 7225 Oliver Street, Lanham,
Prince George's County, Maryland

Spanish Language Interpreter: Ernesto Luna

Witnesses: Bethena Nelson, neighbor

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

Heard and Decided: April 13, 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 existing conditions, construct a 1-foot concrete wall and obtain a building permit for an existing extended driveway and detached carport. 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 1957, contains 9,089 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, detached carport, driveway, shed and new concrete patio area. Exhibits ("Exhs.") 2, 3, 8 and 9. The existing dwelling was built in 1958. Exh. 8.

2. The property is an odd-shaped lot located at a bend in the street (Oliver Street). The property widens from front to rear. Exhs. 2 and 4.

3. Petitioner was cited with Building Violation Notice No. 2871-2016-0, dated June 25, 2015, by DPIE/Inspections Division ("Violation Notice"), requiring that the required building permit(s) be obtained for work done at the property (which includes an extended driveway). Exh. 6.

4. Petitioner would like to obtain a building permit for the extension of the driveway in the front yard and to the detached carport, but variances are required. Since the driveway was extended into 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. Inspector Lauren Clagett testified that she inspected the property on July 24, 2015, and observed a 6-foot wooden fence, the extended driveway and a small secondary structure (a shed too close to the property line). Exh. 20. She stated that the permit history of the subject property revealed that a permit was pulled in

2007 for driveway construction but all required inspections had not been done before the permit expired, prompting her to issue the Violation Notice.

6. Petitioner testified that he applied for the driveway permit (Exh. 5) and insisted that an inspector checked the driveway measurements and stated that he could pour the concrete.

7. Bethena Nelson, the neighbor who lives on the abutting property to the left of Petitioner's property, submitted a copy of a survey of her property (Lot 20) which she believes shows that Petitioner's shed and fence encroach onto her property. Exh. 19.

8. Petitioner stated that to meet the regulation requirements, the 10' x 16' shed/carport Exhs. 4(A) thru (H)) will be moved away from the property line (Exh. 4(A)), a panel at the front of his fence will be removed (Exh. 4(A)), and a one-foot-high concrete wall will be built between the driveway and the patio area (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 unusual shape of the property, final inspection for the existing driveway having never been done, a valid permit issued in 2007 having expired, the driveway extending into the area of the front yard requiring a variance, 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 of the property.

BE IT THEREFORE RESOLVED, by majority vote, Chairperson Mack absent, that a waiver of the parking area location requirement in order to validate existing conditions, construct a 1-foot concrete wall and obtain a building permit for an existing extended driveway (total driveway area of approximately 950 square feet) and 10' x 16' detached carport on the property located at Lot 21, Block 1, Lanham Wood Subdivision, being 7225 Oliver Street, Lanham, 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)
Albert C. Scott, Vice Chairman

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.