

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-28-16 Carbajal, Inc.

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: May 25, 2016.

CERTIFICATE OF SERVICE

This is to certify that on June 8, 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
Office of Law
Lewisdale Citizens' Association
Mark Maier, Spanish Language Interpreter

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

Petitioner: Carbajal, Inc.

Appeal No.: V-28-16

Subject Property: Lot 11, Block 14, Lewisdale Subdivision, being 7100 24th Avenue, Hyattsville,
Prince George's County, Maryland

Counsel for Petitioner: Stacey Pace, Esq., PACE Group PLLC

Spanish Language Interpreter: Mark Maier

Witnesses: Walter Carbajal

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

Heard: May 11, 2016; Decided: May 25, 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, Petitioner requests that the Board approve variances from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a front yard at least 25 feet in depth and a side yard at least 8 feet in width; 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; and Section 27-442(i)(Table VIII), which prescribes that on a corner lot accessory buildings shall be set back 10 feet from the rear lot line. Petitioner proposes to validate existing conditions, obtain a building permit for new driveway area and construct a driveway extension. Variances of 5 feet front yard depth and .5 foot side yard width for the dwelling, a waiver of the parking area location requirement¹ and a variance of 6 feet rear lot line setback for an accessory building are requested.

Evidence Presented

1. The property was subdivided in 1946, contains 6,980 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 3, 8 and 9. The existing single-family dwelling was built in 1948. Exh. 8.
2. The property is a corner lot with the dwelling facing the legal front street (24th Avenue) and the driveway accessing the legal side street (Banning Place). Exh. 2.
3. DPIE cited Petitioner with Building Violation Notice No. 16416-15-0, dated April 14, 2015, requiring that the required permit(s) be obtained for work done at the property, including but not limited to extending the driveway, or the work be removed. Attachment to Exh. 5.

¹ It was later determined that a waiver for the location of the driveway is not needed. Exh. 27.

4. Petitioner would like to obtain a building permit for a 15' x 24' driveway and a proposed 5' x 24' driveway extension. Exh. 2.

5. Variances are needed to validate certain existing conditions before a permit may be obtained for Petitioner's driveway. Since the existing covered front porch is located 20 feet from the front street line, the dwelling is located 7.5 feet from the side lot line and an existing shed is located 4 feet from the rear lot line, variances of 5 feet front yard depth and .5 foot side yard width for the dwelling and 6 feet rear lot line setback for an accessory building were requested to validate these existing conditions. Exh. 13.

6. Petitioner Walter Carbajal testified that that he has owned the property since 2014 and resides at the property. He stated the driveway size was 10' x 25' when he purchased the property and he would like to make the existing driveway 20 feet wide to be sufficiently wide enough to park two cars. He explained that he widened the driveway in 2014 to comport with the existing driveway apron (Exhs. 4(A) and (B)), but he is now proposing a double apron.

7. Counsel for Petitioner stated that due to the vehicular congestion on the streets (Exhs. 20, 22 and 24), it is very difficult to move a vehicle in and out of the property which creates a safety issue. Counsel pointed out that Petitioner's neighbor has a driveway much wider than Petitioner's driveway.

8. Inspector Lauren Clagett testified that the shed in the rear yard was recently added. She also explained that Petitioner applied for a permit in April 2016 for a 10' x 28' driveway, but that permit does not satisfy the violation and she instructed Petitioner to revise the permit or make the driveway match the site plan. She noted that both of the streets (24th Avenue and Banning Place) next to Petitioner's property are one-way. *See* Exhs. 20 and 24.

9. Lewisdale Citizens' Association opposed the request. Exh. 17.

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 property being a corner lot, existing conditions on the property needing validation before a building permit may be obtained for driveway widening, the house being built in 1948, the need for off-street parking space for two vehicles for safety reasons, 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, unanimously, that variances of 5 feet front yard depth and .5 foot side yard width for the dwelling and a variance of 6 feet rear lot line setback for an accessory building in order to validate existing conditions, obtain a building permit for a 15' x 24' driveway and construct a 5' x

24' driveway extension on the property located at Lot 11, Block 14, Lewisdale Subdivision, being 7100 24th Avenue, Hyattsville, Prince George's County, Maryland, be and are 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.