

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-40-16 Susana Hernandez and Hector Fuentes

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: July 27, 2016 .

**CERTIFICATE OF SERVICE**

This is to certify that on August 10, 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 Riverdale Park  
Ernesto Luna, Spanish Language Interpreter

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

Petitioners: Susana Hernandez and Hector Fuentes

Appeal No.: V-40-16

Subject Property: Lot 16, Block 9, E.W. Geiger's Subdivision of Lots 1 & 2, Block 9, Riverdale Park  
Section 2, being 6421 Taylor Road, Riverdale, Prince George's County, Maryland

Municipality: Town of Riverdale Park

Spanish Language Interpreter: Ernesto Luna

Witness: Mary Stamler, neighbor

Heard: May 25, 2016; Decided: July 27, 2017

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 7 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 a new driveway. Variances of 2.5 feet side yard width, 3.7% 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 1939, contains 7,810 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, 6 and 7. The existing dwelling was built in 1941. Exh. 6.
2. The property is located within the municipal limits of the Town of Riverdale Park. Exhs. 6 and 7.
3. The property is regular in its shape and size. Exhs. 2 and 3. The topography of the property is basically flat. Exhs. 4(A) thru (D) and 8(F) thru (H).
4. The Department of Permitting, Inspections and Enforcement issued a violation notice dated January 14, 2016 ("Violation Notice"), requiring Petitioners to obtain the required permit(s) for work already done at the property, including but not limited to extending the driveway, or remove it. Exh. 16.
5. Petitioners would like to validate and obtain a building permit for a new 1,225 square foot driveway, but variances are needed to obtain the permit. Since construction of the driveway causes the allowed amount of net lot coverage (30%) on the property to be exceeded, a variance of 3.7% net lot coverage was requested. Exhs. 10 and 11. In addition, since a portion of the 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 also requested. Exh. 11.

6. To obtain a permit for the driveway, a variance is also required to validate the location of steps on the left side of the existing dwelling. Since the steps are located 4.5 feet from the side lot line, a variance of 2.5 feet side yard width was requested. Exh. 11.

7. Petitioner Hector Fuentes testified that the property was purchased 5 years ago. He explained that he put in the new driveway in 2015 (Exhs. 4(A) thru (D)) because the property did not look good, he wanted to park his car on his property and a little bit of water was getting into the basement on one side. He stated that the new driveway replaced a gravel driveway to make it look better. He also stated that he did not widen the existing apron, but expanded the driveway after he saw that others in the neighborhood had driveways in front and he liked the way that looked.

8. Mary Stamler, who testified that she has lived at the property next door for 65 years, supported Petitioners' request.

9. Inspector Clagett testified that she inspected the property on January 13, 2016, after receiving a complaint regarding the construction of the extended driveway. *See* Exhs. 19(A) thru (C). She explained that she issued the Violation Notice to Petitioners for doing the work without a building permit. Exh. 16. She recalled seeing driveways in the neighborhood that were as long, but not as wide, as Petitioners' driveway.

10. The Town of Riverdale Park (the "Town"), opposed driveways located in front of single family homes and recommended approval of only the amount of additional net lot coverage necessary to obtain a permit for the portion of the driveway located to the side of the house.<sup>1</sup> Exhs. 20 and 25.

#### 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 do not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The Board finds that Petitioners' lot has no exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition.

2. Because the conditions of the property are ordinary, the Board does not deem it necessary to consider the other requirements of Section 27-230.

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<sup>1</sup> After the Town made its recommendation to remove the portion of the driveway in front of the house (Exh. 20), Petitioners were given the opportunity to consult with the Town and submit a revised site plan. Exh. 22. Petitioners submitted a revised site plan (Exh. 23), but the Town found the revised plan is still not consistent with the Town's recommendation. Exh. 25.

BE IT THEREFORE RESOLVED, unanimously, that variances of 2.5 feet side yard width, 3.7% net lot coverage and a waiver of the parking area location requirement in order to validate existing conditions and obtain a building permit for a new 1,225 square foot driveway on the property located at Lot 16, Block 9, E.W. Geiger's Subdivision of Lots 1 & 2, Block 9, Riverdale Park Section 2, being 6421 Taylor Road, Riverdale, Prince George's County, Maryland, be and are hereby DENIED.

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 27-234 of the Prince George's County Code states:

If the Board denies an appeal involving a variance, no further appeal covering the same specific subject on the same property shall be filed within the following twelve (12) month period. If the second appeal is also denied, no other subsequent appeals covering the same specific subject on the same property shall be filed within each eighteen (18) month period following the respective denial.