

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-116-16 Willie and Robin Hill

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: October 5, 2016.

CERTIFICATE OF SERVICE

This is to certify that on October 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: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Enforcement Division

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

Petitioners: Willie and Robin Hill

Appeal No.: V-116-16

Subject Property: Lots 17 & 23, Block 15, Highland Park Subdivision, being 1202 Java Place, Landover, Prince George's County, Maryland

Heard and Decided: October 5, 2016

Board Members Present and Voting: Bobbie S. Mack, Chairperson
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) of the Zoning Ordinance, which prescribes that each lot shall have a side yard at least 8 feet in width and a rear yard at least 20 feet in depth/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 an existing condition and repave an existing driveway in the front yard. Variances of 2.5 feet side yard width, 1 foot rear yard depth/width, 13.6% 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 1975, contains 7,000 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and two driveways. Exhibits ("Exhs.") 2, 3, 7 and 8. The existing dwelling was built in 1976. Exh. 7.
2. The property consists of two zoning lots, Lots 17 and 23. Exhs. 2 and 3.
3. There is sloping topography on the right side of the property. Exh. 9(F).
4. The Department of Permitting, Inspections and Enforcement issued a violation notice (CSD Case No. 16-00004731) ("Violation Notice"), dated August 16, 2016, informing Petitioners of certain violations requiring correction, including repair of a driveway that has hole(s), crack(s), is deteriorated and/or has sunken surfaces. Exh. 5.
5. Petitioners would like to replace the existing 19' x 20' asphalt driveway with a concrete driveway but variances are needed to obtain a building permit. Since 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 requested. Exh. 12.
6. Variances are also needed to validate other existing conditions. Since the steps on an existing deck at the rear of the dwelling are located 5.5 feet from the side lot line and 19 feet from the rear lot line, variances of 2.5 feet side yard width and 1 foot rear yard depth/width were requested. Exh. 12.

7. In addition, since the allowed amount of net lot coverage (30%) is exceeded by existing development on the property, a variance of 13.6% net lot coverage was requested. Exhs. 11 and 12.

8. Petitioner Robin Hill testified that they have lived at the property for about 30 years and the asphalt driveway in front of the house needs to be repaired. She explained that the driveway existed when the property was purchased, but when in response to the Violation Notice an attempt was made to obtain a building permit to replace the driveway, she was informed a variance was required.

9. She further testified that the house is located on Lot 23 and when the abutting Lot 17 was later purchased, the garage and second driveway were added on that side of the property.

10. She explained that Petitioners would like to continue living in their house because of their ages and the house has needed living space on one level. She stated that they need to keep the second driveway because the other driveway poses a problem due to its location on a hill (Exh. 9(F)). She also stated that she has scoliosis and her husband has a heart condition.

11. Petitioner Willie Hill testified that the driveway Petitioners would like to replace is next to a walkway that leads to the front door where there is only one step up. Exhs. 4 and 9(F).

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 sloping topography on the right side of the property, a Violation Notice instructing Petitioners to replace an existing driveway, the driveway to be repaired having existed for 30 years, variances being needed before a permit may be obtained to replace the driveway, 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, by majority vote, Vice Chairman Scott absent, that variances of 2.5 feet side yard width, 1 foot rear yard depth/width, 13.6% net lot coverage and a waiver of the parking area location requirement in order to validate an existing condition and repave an existing 19' x 20' asphalt driveway with concrete in the front yard on the property located at Lots 17 & 23, Block 15, Highland Park Subdivision, being 1202 Java Place, Landover, 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.