

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-119-16 Maria Mejia and Jose Guevara

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 26, 2016.

CERTIFICATE OF SERVICE

This is to certify that on November 16, 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
Town of Forest Heights

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

Petitioners: Maria Mejia and Jose Guevara

Appeal No.: V-119-16

Subject Property: Lot 10, Block 3, Forest Heights Subdivision, being 5809 Terrell Avenue, Oxon Hill, Prince George's County, Maryland

Municipality: Town of Forest Heights

Spanish Language Interpreter: Ernesto Luna

Witness: Ricardo Smith, Code Enforcement Officer, Town of Forest Heights

Heard and Decided: October 26, 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) of the Zoning Ordinance, which prescribes that each lot shall have a front yard at least 25 feet in depth, 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 construct a handicapped ramp and driveway in the front yard. A variance of 3 feet front yard depth and a waiver of the parking area location requirement are requested.

Evidence Presented

1. The property was subdivided in 1952, contains 5,545 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling. Exhibits ("Exhs.") 2, 3, 6 and 7. The existing dwelling was built in 1952. Exh. 6.

2. The lot has an irregular/angled rear property line, causing the left side of the rear yard to be shallower than the right side. Exh. 2. Neither side yard is wide enough to accommodate a driveway of the standard width. Exh. 2.

3. Petitioners would like to construct a handicapped ramp and 16' x 26' driveway (Exh. 2), but variances are needed to obtain a building permit. Since a portion of the driveway will be 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. 9.

4. The location of the covered front stoop must also be validated to obtain the building permit. Since the covered stoop is 22 feet from the front street line, a variance of 3 feet front yard depth was also requested. Exh. 9.

5. Petitioner Jose Guevara testified that he has lived at the property for 11 months. He stated that there is currently no driveway on the property and he wants a driveway next to a ramp leading to the front

door. He explained that the ramp is needed to accommodate his daughter, who is now in a military hospital, once she arrives home.

6. He further testified that the only alternative plan would be to build a ramp extending to the rear of the house where there is a door.

7. The Town of Forest Heights supported the construction of the handicapped ramp and driveway and had no objection to the request. Exh. 15.

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 narrowness of the side yards, the need for a place to park on the property with easy access to a handicapped ramp, the driveway and ramp being needed for a disabled child, the proposed ramp leading directly to the front door of the dwelling, the only alternative plan being construction of a ramp extending to the rear of the house, 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 a variance of 3 feet front yard depth and a waiver of the parking area location requirement in order to validate an existing condition and construct a handicapped ramp and 16' x 26' driveway in the front yard on the property located at Lot 10, Block 3, Forest Heights Subdivision, being 5809 Terrell Avenue, Oxon Hill, 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.