

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-133-16 Jorge and Reyna Acosta

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: December 14, 2016.

CERTIFICATE OF SERVICE

This is to certify that on December 30, 2016, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)
Barbara J. Stone
Acting Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Town of Cheverly
Ernesto Luna, Spanish Language Interpreter

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

Petitioners: Jorge and Reyna Acosta

Appeal No.: V-133-16

Subject Property: Lot 16, Block 4, Cheverly Subdivision, being 2902 64th Avenue, Cheverly,
Prince George's County, Maryland

Municipality: Town of Cheverly

Spanish Language Interpreter: Ernesto Luna

Heard: November 30, 2016; Decided: December 14, 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(i)(Table VIII) of the Zoning Ordinance, which prescribes that accessory buildings shall be set back 60 feet from the front street line and 2 feet from any side lot line 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 driveway. Variances of 10 front street line setback and 1 foot side lot line setback for an accessory building 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 1942, contains 5,431 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and shed. Exhibits (Exhs.) 2, 3 and 7(A) thru (F)
2. The property is an odd shaped lot. Exhs. 2 and 4.
3. Petitioners would like to construct a 10' x 27.5' driveway, a portion of which will be in front of the screened *press* (porch). Exhs. 2 and 4(A) thru (B).
4. Section 27-120.01(c) states that construction of driveways not leading to a carport or garage is not permitted in the area of the front yard between the front street line and the sides of the dwelling. Since part of Petitioners driveway will be located in this area of the front yard, a waiver of the parking area location requirement was requested. Exhs. 2, 4(A) thru (B), and 7(A) thru (F).
5. The existing shed is located 50 feet from the front street line and 1 foot from the side lot line. Variances of 10 front street line setback and 1 foot side lot line setback for an accessory building were also requested. Exhs. 2 and 7(A) thru (F).

6. It was explained that placing the driveway on the other side of the house is problematic because of a water meter (man hole) located on the sidewalk. Exhs. 7(A) thru (F).

7. Petitioner Jorge Acosta explained that because he does not have a driveway, he must park on the street, but due to the Town of Cheverly regulations, parking is permitted only on the opposite side of the street which does not provide sufficient (residential) parking spaces. He contends that when no parking spaces are available, he parks in front of his house and is fined. Exhs. 2, 4(A) thru (B), and 7(A) thru (F).

8. Petitioner also explained that a retaining wall will be built along the driveway because of the slope of the front yard. Exhs. 2 and 4(A) thru (B).

9. The Town of Cheverly supports the variance. Exh. 18.

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 owners 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 location of the dwelling, restricted parking on one side of 64th Avenue, location of a water meter discouraging driveway location on the opposite side of the lot 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 variances of 10 front street line setback and 1 foot side lot line setback for an accessory building and a waiver of the parking area location requirement in order to validate an existing condition and construct a driveway on the property located at Lot 16, Block 4, Cheverly Subdivision, being 2902 64th Avenue, Cheverly, 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.