

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-35-17 Henry Padilla and Heidy Arita Pena

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 24, 2017.

CERTIFICATE OF SERVICE

This is to certify that on June 2, 2017, 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-NCPCC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Inspections Division
Mark Maier, Spanish Language Interpreter

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

Petitioners: Henry Padilla and Heidy Arita Pena

Appeal No.: V-35-17

Subject Property: Lot 17, Block U, Seabrook Acres Subdivision, being 9602 Lanham Severn Road, Lanham,
Prince George's County, Maryland

Witness: Danny Padilla, (Petitioners' Son)

Heard: May 3, 2017; Decided: May 24, 2017

Board Members Present and Voting: 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 a variance 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 a variance from Section 27-120.01(c) of the Zoning Ordinance, 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 construct a driveway extension in the front yard. A waiver of the parking area location requirement is requested.

Evidence Presented

The following testimony and record evidence were considered by the Board:

1. The property was subdivided in 1957, contains 11,109 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 2, 3 and 7.
2. Lanham Severn Road is classified under the Approved Countywide Master Plan of Transportation as a "Collector Road" (80' right-of-way width) with street parking being prohibited. In addition, the deceleration lane for 96th Avenue begins in front of the subject property. Exhs. 9 (A) thru (F).
2. Petitioners would like to construct a 13' x 22' extension to widen the existing driveway. Because the extension will be in the front yard between the front street line and the sides of the dwelling, and Section 27-120.01(c) states that construction of driveways not leading to a carport or garage is not permitted in this area of the front yard, a waiver of the parking area location requirement was requested. Exhs. 2, 4 (A) thru (B), 9 (A) thru (F) and 13.

3. The Department of Permitting, Inspections and Enforcement, Inspections Division posted a stop work order on January 3, 2017 to Petitioners for extending the driveway without building permits. Exhs. 5 and 6.

4. Petitioner Henry Padilla testified that his property is located on a major thoroughfare which does not allow parking on the street. He wishes to provide adequate safe (off street) parking on his property for his family. Exhs. 2, 4 (A) thru (B) and 9 (A) thru (F).

5. Petitioner further testified that the black top portion of the driveway was pre-existing and the existing concrete area of the driveway is not on the subject property but State property. Exhs. 2, 4 (A) thru (B) and 9 (A) thru (F).

6. Mr. Padilla explained that numerous neighbors have extended driveways. Exhs. 18 (A) thru (E).

7. The State Highway Administration provided a letter (email) stating that a residential driveway permit will be issued for the portion of the driveway on State property once the requested variance is received. Petitioners will be required to install pipe to tie-end to the existing ditch line. Exh. 19.

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 variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the subject property being located on Lanham Severn Road, which is classified as a "Collector Road" per the Approved Countywide Master Plan of Transportation (with an 80' right-of-way width), with on-street parking being prohibited, Petitioners' concern for family safety being met by adequate off-street parking, 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, Ms. Bobbie Mack absent, that a waiver of the parking area location requirement to construct a driveway extension in the front yard on the property located at Lot 17, Block U, Seabrook Acres Subdivision, being 9602 Lanham Severn Road, Lanham, Prince George's County, Maryland, be and is 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)
Albert C. Scott, Vice Chairman

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.