

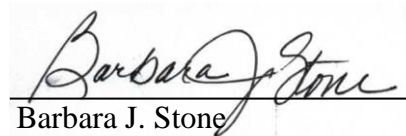
NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-93-17 Livinus Ezeanyaeche, Nnabugwu and Catherine Nwoso

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 11, 2017.

CERTIFICATE OF SERVICE

This is to certify that on October 31, 2017, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Barbara J. Stone
Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Other Interested Parties

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

Petitioners: Livinus Ezeanyaeche, Nnabugwu and Catherine Nwosu

Appeal No.: V-93-17

Subject Property: Lot 22, Block R, Langley Park Subdivision, being 8004 18th Avenue, Hyattsville,
Prince George's County, Maryland

Witness: Belle Keke, Neighbor

Joseph Chiea, Neighbor

Heard August 23, 2017; Decided: October 11, 2017

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Albert C. Scott, Vice Chairman

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 a side yard at least 8 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 27-420(a), which prescribes that on lots consisting of one (1) acre or less, fences and walls in the front yard shall not be more than four (4) feet high without the approval of a variance. Petitioners propose to validate existing conditions, obtain a building permit for a 5-foot white rail fence atop a 1-foot wall in the front yard, a new driveway extension and construct another extension at the end of the driveway. Variances of 7 feet front yard depth, 1 foot side yard width, 21.7% net lot coverage and waivers of the fence location and height requirements for a fence and wall over 4 feet in height in the front yard are requested.

Evidence Presented

1. The property was subdivided in 1950, contains 7,300 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits (Exhs.) 2, 4, 7 9 (A) thru (F) and 20.

2. Petitioners would like to obtain a building permit for a new 6' x 55' driveway extension and construct a 25' x 40' driveway extension at the end of the existing driveway. As the existing development exceeds the amount of lot coverage allowed, and construction of the driveway extensions are/would be further overage, a variance of 21.7% net lot coverage was requested. Exhs. 2, 3 (a) thru (d), 5 (A) thru (I), 9 (A) thru (F), 20 and 21 (a) thru (d).

3. The covered front porch is located 18 feet from the front street line and the dwelling is located 7 feet from the right-side lot line. Variances of 7 feet front yard depth and 1 foot side yard width were requested. Exhs. 2, 3 (a) thru (d), 5 (A) thru (I), 9 (A) thru (F), 20 and 21 (a) thru (d).

4. There is an existing 1-foot cement block wall, topped with a 4-foot fence along the sides and rear and a 5-foot fence along the front of the property. Waivers of the fence location and height requirements for a fence and wall over 4 feet in height in the front yard were requested. Exhs. 19 (A) thru (H).

5. Petitioner Nnabugwu Nwosu explained that in 2012 a house fire occurred for which a building permit was obtained to reconstruct the house. Exh. 7.

6. Mr. Nwosu testified that the hardship would be that they would have to deconstruct a major portion of the house that has been built.

7. He further testified that the lot coverage issue was discovered when attempting to obtain a permit for the driveway, a portion of the (original) house was shown as still existing on the site plan after the reconstruction of the home and improving the driveway, it was necessary procedurally to validate what existed prior to the construction and obtain a variance for net lot coverage. Exhs. 6, 11 and 22.

8. Mr. Nwosu further explained that they desire to repave the driveway and extend it to the rear for additional parking. He testified that several properties in the immediate area have extended driveways. Exhs. 9 (A) thru (F).

9. Mr. Nwosu explained that the fence, erected just as recently as 2 -3 weeks ago and is located around the entire property with a gate at the driveway. The fence is 4-feet tall and sits on top of a 1-foot block wall on the sides and rear. The front property line provides a 5-foot fence on top of a 1-foot block wall. Exhs. 19 (A) thru (H).

10. Petitioner submitted revised site plans to demonstrate the existing fence and the removal of the parking area in front of the house. Corrected elevation plan of the front façade of the house were also submitted. Exhs. 20 and 21 (a) thru (d).

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 a house fire in 2012, the need to rebuild the house and provide additional 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, Anastasia Johnson absent, that variances of 7 feet front yard depth, 1 foot side yard width, 21.7% net lot coverage and waivers of the fence location and height requirements for a fence and wall over 4 feet in height in the front yard in order to validate existing conditions, obtain a building permit for a 5-foot white rail fence atop a 1-foot wall in the front yard, a new 6' x 55' driveway extension and construct a 25' x 40' extension at the end of the driveway on the property located at Lot 22, Block R, Langley Park Subdivision, being 8004 18th Avenue, Hyattsville, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 20 and approved revised elevation plans, Exhibits 21 (a) thru (d).

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.