

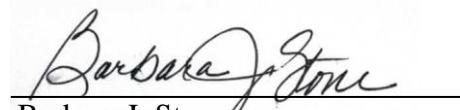
NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-17-18 Shonteka and Donald Byrd, Jr.

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 9, 2018.

CERTIFICATE OF SERVICE

This is to certify that on May 25, 2018, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Barbara J. Stone
Barbara J. Stone
Administrator

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

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

Petitioners: Shontika and Donald Byrd, Jr.

Appeal No.: V-17-18

Subject Property: Lot 17, Block 5, Phelps Second Addition to Forestville Subdivision, being 8104 Phelps Place, District Heights, Prince George's County, Maryland

Witness: Dennis Bartnik, American Pride Remodeling

Heard and Decided: May 9, 2018

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 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), 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 concrete driveway in the front yard and handicapped ramp with platform. 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 1941, contains 6,053 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and shed. The property is located within the Military Installation Overlay Zone. Exhibits (Exhs.) 3, 4, 7, 8 and 10 (A) thru (F).
2. Petitioners would like to construct a 10' x 25' driveway and 3.7' x 19.9' handicapped ramp with platform. The driveway will be in front of the dwelling. Exhs. 2 and 5 (A) thru (D).
3. Section 27-120.01(c) states that construction of driveways not leading to a carport or garage is not permitted in the front yard between the front street line and the sides of the dwelling. Since Petitioners' driveway will be in this area of the front yard, a waiver of the parking area location requirement was requested. Exhs. 3, 5 (A) thru (D) and 10.
4. Petitioner Shontika Byrd testified that both she and her husband are permanently disabled and must use mobility devices. She stated that having the proposed driveway near the house and connecting with the proposed handicapped ramp would be beneficial to their health concerns. Exh. 2.
5. Dennis Bartnik testified that he had been asked in November of 2017, by "workers compensation" through Home Modification Solutions, Inc. to build the proposed driveway. He explained that Ms. Byrd, an MTA bus driver, was injured in an accident when she was driving the bus, leaving her with numerous physical conditions and causing her difficulty with maneuverability. In construction of the accessible

driveway and ramp, Mr. Bartnik stated that he will comply with the guidelines under the Americans with Disabilities Act (ADA). Exh. 17.

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 physical disability of both Petitioners, requiring the use of an accessible handicapped ramp and accessible 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, unanimously, that a waiver of the parking area location requirement in order to construct a 10' x 25' driveway and 3.7' x 19.9' handicapped ramp with platform on the property located at Lot 17, Block 5, Phelps Second Addition to Forestville Subdivision, being 8104 Phelps Place, District Heights, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance(s) is contingent upon development in compliance with the approved site plan, Exhibit 3.

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.