



THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

COUNTY ADMINISTRATION BUILDING, UPPER MARLBORO, MARYLAND 20772
TELEPHONE (301) 952-3220

NOTICE OF FINAL DECISION

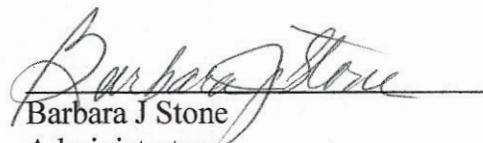
OF BOARD OF APPEALS

RE: Case No. V-38-20 Dehmeh Smith and Alexandra Iorio

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 26, 2021

CERTIFICATE OF SERVICE

This is to certify that on August 31, 2021, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Barbara J. Stone
Administrator

cc: Petitioner
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: Dehmeh Smith and Alexandra Iorio

Appeal No.: V-38-20

Subject Property: Lot 70 and 71, Block C, Hyattsville Hills Subdivision, being 3903 Oliver Street,
Hyattsville, Prince George's County, Maryland Municipality:

Heard and Decided: May 26, 2021

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, Petitioner(s) request(s) that the Board approve variances from Section 27-420(a), which prescribes that fences and walls more than 6 feet high shall not be located in any required yard, and shall meet the setback requirements for main buildings; 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; on a corner lot consisting of one (1) acre or less, fences and walls in the front yard or side yard shall not be more than four (4) feet high without the approval of a variance; and Section 27-442(e)(Table IV), which prescribes that each corner lot shall have a front yard at least 25 feet in depth and a minimum side yard along the side street at least 25 feet in depth, a side yard at least 8/9 feet in width or two side yards totaling 17 feet in width with the minimum width of either side yard being 8 feet, and a rear yard at least 20 feet in depth/width. Petitioners proposes to validate existing conditions (front yard depth and net lot coverage) and obtain a building permit for unauthorized construction of a five-feet wall in front of the house. Variances of 5 feet front yard depth, 11% net lot coverage and a waiver of the wall location and height requirements over 4 feet in the front (abutting Oliver Street) are requested.

Evidence Presented

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

1. The property was subdivided in 1925, contains 6,000 square feet, is zoned R-55 (One Family Detached Residential) and is improved with a single-family dwelling, driveway and retaining wall. Exhibits (Exhs.) 2, 3, 7, 8, and 9 (A) thru (G).
2. The subject property slopes on the left side yard where the existing retaining wall is located; the dwelling is situated on a hill. Exh. 2, 3, 7, 8, and 9 (A) thru (G).
3. Petitioners are proposing to validate existing conditions (front yard depth and net lot coverage) and obtain a building permit for unauthorized construction of a five-foot retaining wall in front of the house. Due to existing conditions, the front yard depth is short 5 feet requiring a variance and the percentage of lot coverage is over the allowable 11% also requiring a variance. In addition, the front wall is over the wall location and 4 feet allowable height requirement for which waivers will be necessary. Exhs. 2, 3, 7, 8, and 9 (A) thru (G).

4. Petitioner Alexandra Iorio testified that they are not proposing any new construction, but simply to bring the property into compliance. She explained that construction of the retaining wall had occurred prior their purchase of the property in September 2018. She further explained that the retaining wall is necessary at its height given the way the land slopes and where the house sits on a hill. Exhs. 4 (A) thru (F) and 10.

5. Petitioners stated that after research, including a title search, inspections etc., were conducted, no issue out of compliance was discovered. In the justification statement, it was stated that about a year later, in February or March 2020, they received a violation notice door tag from County Inspector Kenneth Harrison notifying them about certain code violations on the property. It was stated that Inspector Kenneth Harrison informed them that the previous owners did not obtain a property permit for the construction of the retaining wall and driveway.¹ It was further stated that the inspector suggested that they contact the Prince George's County's permit office to try to sort things out. Petitioner's stated that the office informed them that variances for the lot coverage and the retaining wall were necessary. Exh. 2, 4 (A) thru (F), 10 and 17.

6. Petitioner stated that most of the homes in the neighborhood have retaining wall as similarly all of their front yards have steep front yards. Exh. 2, 4 (A) thru (F), 10 and 17.

7. Petitioners contended that the strict application of the zoning requirements would require that they tear down the existing retaining wall and reconstruct it a few inches shorter. They surmised that the height of the wall may be a function of the slope of the land and where the house sits, so significant landscaping would likely be required as well to ensure that the lower wall does not affect the foundation and structure of the house itself. They further contended that regarding the driveway, strict application of the requirements would require reconstruction of the driveway to make it just a few inches narrower. Exh. 2, 4 (A) thru (F), 10 and 17.

8. Petitioners noted that both reconstruction projects would not only impact them, but also their neighbors on both sides with whom they share the retaining wall (left side) and the driveway (right side).

9. Petitioner Dehmeh Smith testified that no other building construction has been performed on the subject property. Reemphasizing that they are only seeking to validate existing conditions. Exhs. 2 and 4 (A) thru (E).

10. The City of Hyattsville stated that it had no objection to the appeal so long as there are no new improvements made on the property, and only existing conditions are being validated. Exh. 17

11. A revised site plan was submitted to reflect additional dimensions of the wall. Exh. 2, 4 (A) thru (F), 10 and 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:

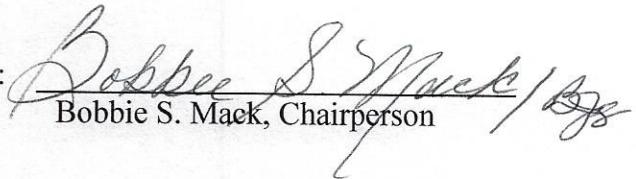
¹ Petitioners stated that the driveway is shared with the neighbor to the left of the property. Exh. 2, 3, 4 (A) thru (F), 10 and 17.

Due to the retaining wall being needed for the stabilization of ground in the steep front yard, the slope in the front yard is very aggressive slope, the preexisting location of the house on a hill, the previous owners constructing the driveway and retaining wall without appropriate building permits, the wall and driveway are essentially shared with neighbors, the City of Hyattsville does not object to the prior improvements, 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 owner of the property.

BE IT THEREFORE RESOLVED, unanimously, that variances of 5 feet front yard depth, 11% net lot coverage and a waiver of the wall location and height requirements for a wall over 4 feet in height in the front (abutting Oliver Street) in order to validate existing conditions (front yard depth and net lot coverage) and obtain a building permit for unauthorized construction of a five-feet wall in front of the house on the property located at 3903 Oliver Street, 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 10.

BOARD OF ZONING APPEALS

By:


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.

Submitted 4/15/21

PREPARED BY:



p: 443.819.3994
www.exactaMD.com

PROPERTY ADDRESS: 3903 OLIVER STREET

HYATTSVILLE, MARYLAND 20782

SURVEY NUMBER: MD1808.1471

FIELD WORK DATE: 8/27/2018

REVISION HISTORY: REV 8/27/2018

18081471
LOCATION DRAWING
LOT 70 & 71, BLOCK C
HYATTSVILLE HILLS
PRINCE GEORGE'S COUNTY, MARYLAND
08-27-2018 SCALE 1"=30'



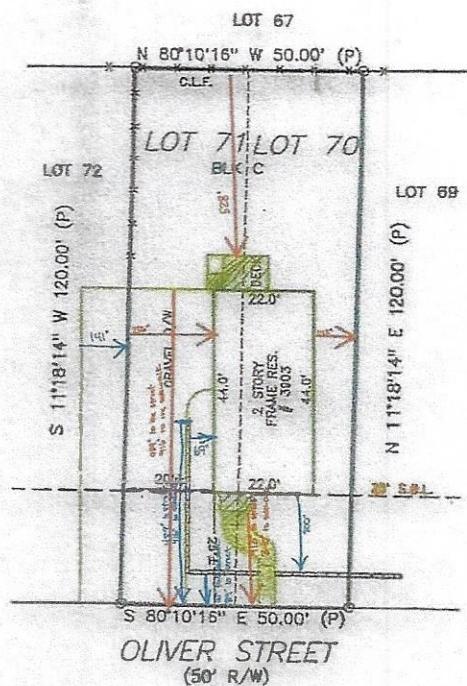
30 0 15 30
GRAPHIC SCALE (in Feet)
1 inch = 30' ft.
ACCURACY: 3±

PLEASE NOTE

This House Location Drawing is for informational purposes only. Per Maryland State Code it may not be relied upon to determine property boundaries and may not be used for building permits or construction.



William H. H. L.
EXPIRES 1-14-2019



BOARD OF APPEALS

APPROVED MAY 26 2021

John Malone
John Malone
ADMINISTRATOR

EXH. # 10
V-38-20

POINTS OF INTEREST:
DRAUGHT APPEARS TO EXTEND OVER PROPERTY LINE.

CLIENT NUMBER: 239931LOGMO

DATE: 08/27/18

BUYER: Dehme R. Smith and Alexandra N. Iorio

SELLER: JANET STEDMAN

CERTIFIED TO:

DEHMEH R. SMITH AND ALEXANDRA N. IORIO, RGS TITLE, LLC, FIRST AMERICAN TITLE INSURANCE COMPANY, PROSPERITY HOME MORTGAGE, LLC

A LICENSEE EITHER PERSONALLY PREPARED THIS DRAWING OR WAS IN RESPONSIBLE CHARGE OVER ITS PREPARATION AND THE SURVEYING WORK REFLECTED IN IT.

POWERED BY

Surveystars

LBP 21535
www.surveystars.com

EXACTA
MARYLAND SURVEYORS

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THIS IS A TWO PAGE DOCUMENT. THE ADVICE FOUND ON THE AFFIXED PAGE (PAGE 2 OF 2) IS AN INTEGRAL PART OF THE PLAT.