



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

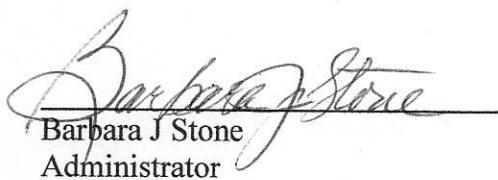
OF BOARD OF APPEALS

RE: Case No. V-67-20 Houston E. Ashlock

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: April 28, 2021

CERTIFICATE OF SERVICE

This is to certify that on July 29, 21, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

A handwritten signature in black ink, appearing to read "Barbara J. Stone", is written over a horizontal line. Below the signature, the name "Barbara J. Stone" is printed in a standard black font, followed by the title "Administrator" in a smaller font.

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

Petitioner: Houston E. Ashlock, et al.

Appeal No.: V-67-20

Subject Property: Lot 13, Block A, Holmehurst Subdivision, being 4922 Smithwick Lane, Bowie, Prince George's County, Maryland

Witnesses: Sharon Kirksey, Resident

Sandy Rinck, Neighbor

Melissa Dent, Neighbor

Mariwan Abdullah, Department of Permitting, Inspections and Enforcement (DPIE)

Ted Jeong, Department of Permitting, Inspections and Enforcement (DPIE)

Ray De Guzman, Department of Permitting, Inspections and Enforcement (DPIE)

Heard: February 10, 2021; Decided: April 28, 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 requests that the Board approve a variance from Section 27-442(c)(Table II) which prescribes that not more than 25% of the net lot area shall be covered by buildings and off-street parking. Petitioner proposes to validate an existing condition (lot coverage) and obtain a building permit to convert the gazebo into a sunscreen room. Variance of 7.8% net lot coverage are requested.

Evidence Presented

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

1. The property was subdivided in 1967, contains 20,000 square feet, is zoned R-E (Residential-Estate) and is improved with a single-family dwelling, driveway, porch, addition, shed and gazebo. Exhibits (Exhs.) 3, 5, 10, 11 and 12 (A) thru (H).
2. Petitioners propose to validate an existing condition (lot coverage) and obtain a building permit to convert the existing gazebo into a sunscreen room. Maximum allowable lot coverage permits 25%. Petitioners have exceeded the maximum net coverage by 7.8% for which a variance is required. Exhs. 3, 5, 10, 11 and 12 (A) thru (H).
3. On August 5, 2020, a Correction Order was issued to the Petitioners by a County inspector (Inspector Torrence), to obtain building permits for the new concrete added to driveway all the way to the patio in the backyard and the gazebo/sunscreen framing with fabric cover. Exh. 7.

4. Petitioner Houston Ashlock testified that he is seeking an approval for net lot coverage to allow him to pursue the permits. He explained that there are three pending permits for a sunscreen mesh cover, a fence gate and an extended parking pad, respectively.¹

5. Petitioner stated that the preexisting house is positioned 106.3 feet from the street. Exh. 2.

6. He further stated that the existing hardscape area on the left side is consistently soggy and muddy from water flowing down from the neighbor's rear yard to his driveway to the street. He noted that the hardscape area is used solely as a safe surface area on the left side yard to walk on in accessing the rear yard, while also channeling water to the driveway.

7. He explained that a parking pad was placed to the right of the driveway is (because of the problems mentioned on the left side yard) and because damaging debris falls on vehicles from the adjoining neighbor's trees. Exhs. 6 (A) thru (H).

8. He further explained that the sunscreen framing for the gazebo is necessary to merely support a fabric sunscreen in order for him to enjoy the outside and to provide protection from the sun. Exh 10.

9. He testified that concrete was laid a few years ago when an addition to the home was constructed, at which time the two driveway parking pads were constructed, one on each side of the driveway. In addition, the concrete walkway was built extending from the left corner of the house to the rear to around the addition to the sun screened (fabric) porch. Exhs. 3, 4, and 6 (A) thru (H).

10. Melissa Dent, neighbor at 4920 Smithwick Lane, testified that she is the neighbor most affected by the constructions. She is concerned that proper drainage was not put in place to allow water runoff from the roof and the concrete was improperly graded so that it slopes toward her property. As a result, she stated that her property has been flooded and her ground is eroding. She objects to granting the variance unless the water drainage issue is addressed.

11. Mariwan Abdullah, Site Road Division, DPIE, stated that DPIE was opposed to the variance also because of the excessive pavement that was poured without permits. He stated that the amount of concrete is creating runoff that contributes to the flooding issues. He further stated that there are ways, however, to mitigate the flooding, including removing some of the pavement. He noted that DPIE has neither seen the site plan to determine if the concrete has been laid correctly nor a plan that shows the slopes or direction of the water. He emphasized that there must be proper slopes to create a path for the water. He recommended that engineering plans needed to be reviewed in order for DPIE to suggest ways in which to mitigate the water issue.

12. Petitioners were directed by the Board to meet with DPIE to discuss mitigation of the water issues. As a result, a revised site plan was submitted to the Board reflecting two water mitigation recommendations by DPIE: a) add 4" minimum high curb at 8" width along the full length of the left side of the driveway and walkway; and b) connect existing downspouts DS-1 and DS-2 outfall via roof leaders along side of house onto proposed splash block SB-1. 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.

¹ Ted Jeong, Site Road Division, DPIE, stated that he is the engineer reviewing all three of the permits listed on the application. Exh. 3

Findings of the Board

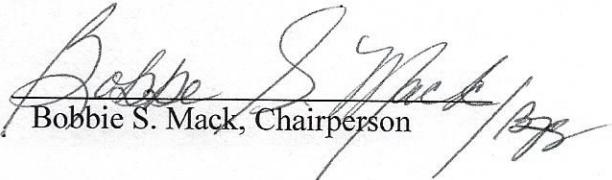
After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variances comply with the applicable standards set forth in Section 27-230, more specifically:

Due to the existing deep location of the dwelling on the property contributing to the size of the extended driveway, constant water issues on the left side of the property, the need to have an extended and water safe walkway to the rear of the property where the gazebo is located, Petitioners working directly with DPIE to successfully mitigate water issues affecting the neighbor(s), the sunscreen framing for the gazebo is necessary to support the fabric sunscreen, 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 variance of 7.8% net lot coverage in order to validate an existing condition (lot coverage) on the property located at 4922 Smithwick Lane, Bowie, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved revised site plan, Exhibit 19 and approved elevation plan, Exhibit 4.

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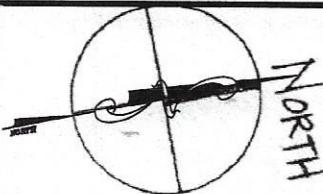
By:


Bobbie S. Mack, ChairpersonNOTICE

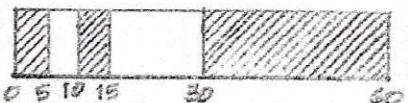
Within thirty (30) days from the date of this decision, any person, firm, corporation, or governmental agency who was a party to the Board's proceedings and is aggrieved by its decision may file an appeal to the Circuit Court of Prince George's County.

Further, Section 27-233(a) of the Prince George's County Code states:

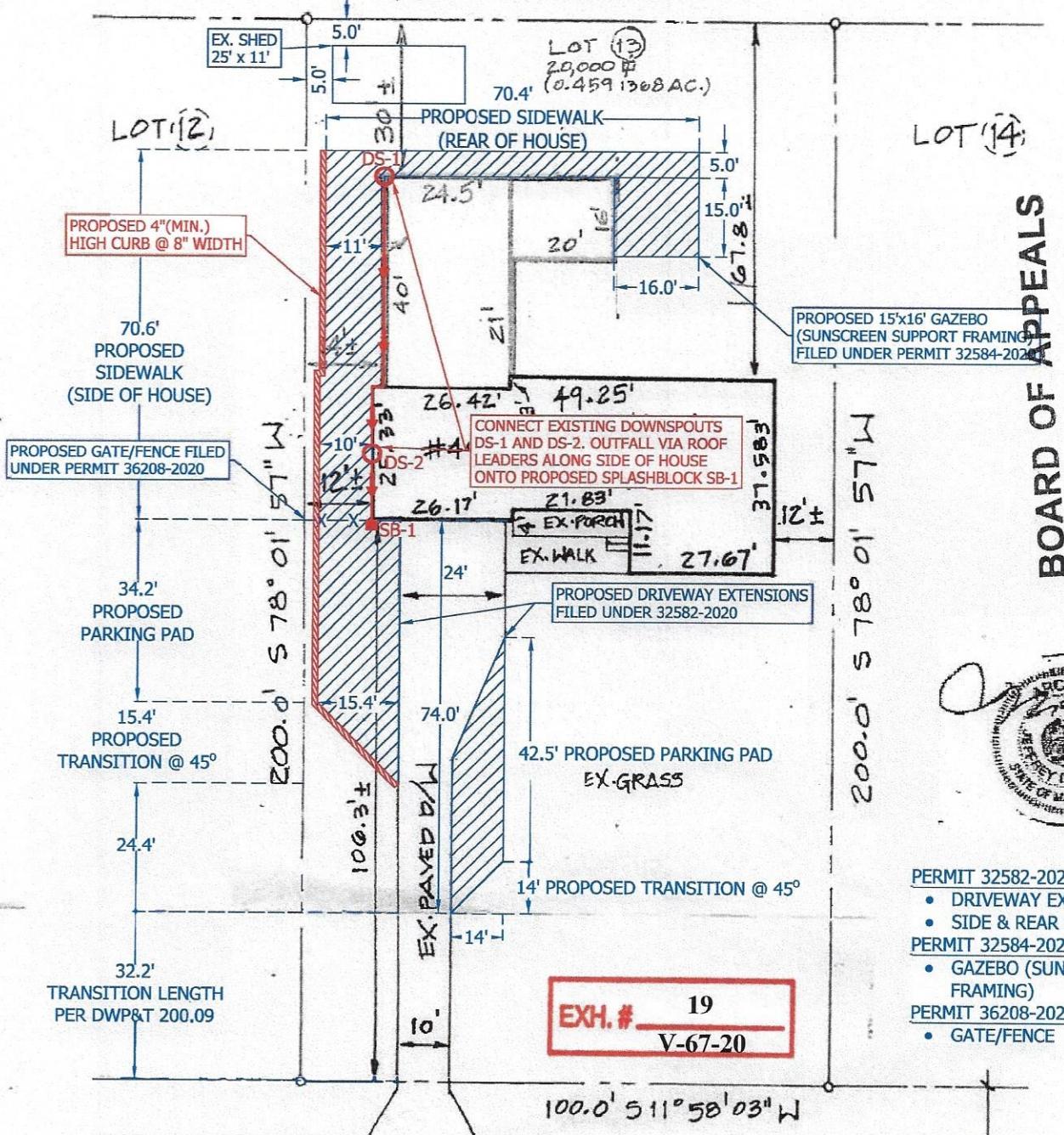
A decision of the Board, permitting the erection of a building or structure, shall not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision and the permit.



SCALE: 1" = 30.0'



100.0' S 11° 58' 03" W



BOARD OF APPEALS

APPROVED APR 28 2021

ADMINISTRATOR



PERMIT 32582-2020:

- DRIVEWAY EXTENSION
- SIDE & REAR SIDEWALK

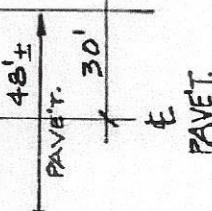
PERMIT 32584-2020:

- GAZEBO (SUNSCREEN SUPPORT FRAMING)

PERMIT 36208-2020:

- GATE/FENCE

SMITHWICK LANE 60' R.O.W.



SITE PLAN

4922 SMITHWICK LANE - BOWIE, MD 20720

SUBDIVISION: SECTION FIVE OF HOLMEHURST, BLOCK "A", LOT 13; LIBER 20741 FOLIO 103

TAX MAP GRID: 045E4, WSSC GRID: 207NE11, PLAT: A07-6417; ELECTION DISTRICT:07 (QUEEN ANNE)

DATA PER THE LAND RECORDS OF PRINCE GEORGE'S COUNTY, MARYLAND (PG ATLAS)

EXISTING USE: SINGLE FAMILY HOUSE; LOT SIZE: 20,000 SQUARE FEET (0.4591368 ACRE)

TAX ACCOUNT # 0736413; ZONING: R-E, RESIDENTIAL ESTATE, YEAR BUILT 1977

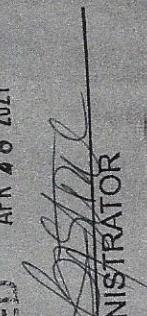


PROPOSED WORK AREA

EXH. # 4
V-67-20

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Administrator