

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

Petitioner: Patricio Zamora

Appeal No.: V-14-19

Subject Property: as Lot 15, Block G, McCahill Estates Subdivision, being 16210 Gales Street, Laurel,
Prince George's County, Maryland

Ernesto Luna, Spanish Language Translator

Witness: Barbara Sollner-Webb, President, West Laurel Civic Association

Israel Zamora, Brother of Petitioner

Paola Velez, Wife of Petitioner

Heard: March 20, 2019; Decided: May 8, 2019

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 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, Petitioner requests that the Board approve a variance from Section 27-442(e)(Table IV) which prescribes that each lot shall have two side yards totaling 17 feet in width with the minimum width of either side yard being 8 feet. Petitioner proposes to validate an existing condition (development) and construct an attached garage. Variances of 6 feet side yard width and 20 feet building width are requested.

Evidence Presented

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

1. The property was subdivided in 1966, contains 13,430 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, deck, driveway and shed. Exhibits (Exhs.) 2, 4, 8, 9 and 10 (A) thru (G).

2. Petitioner Patricio Zamora would like to construct an attached garage (19' wide x 36' in length). Because the proposed garage will be 2 feet from the property line of the adjoining property (Lot 16), a variance for side yard setback was requested. Exhs. 2, 3, and 5 (A) thru (G).

3. Petitioner testified that he would like to construct an attached garage in order to be able to park 4 vehicles for safety reasons - two vehicles in the garage and the other two in the driveway. He explained that the street is very narrow and difficult to park vehicles on it.¹ His concern is also with a neighbor's tree which hangs over his driveway and from which there is constant dropping of branches and sap, which falls onto his cars.

4. There is a chimney located along the side of the house, which narrows the proposed garage significantly to 14 feet. Exhs. 2, 3 and 5 (A) thru (G).

¹ He stated that concrete for the driveway has already been poured for which he had a building permit and the proposed garage will be built over a portion of the existing concrete.

4. Barbara Sollner-Webb testified that for decades the West Laurel Civic Association has stood for maintaining community standards and the integrity of the Master Plan. She argued that the proposed variance(s) does not meet the legal requirements for granting a variance. She explained that the subject property does not meet the first criteria of having any exceptional narrowness, shallowness, shape or topography. She stated that forty percent or twenty-two (22) of eighty-three (83) neighboring properties are as narrow or narrower than the subject property. She further stated that there is nothing exceptional about the frontage as a plethora of properties in the area are identical.² She continued that the second criteria of strict application of the Zoning Ordinance would not result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon Petitioner. She stated that the third requirement is adhering to the intent, purpose and integrity of the General Plan or Master Plan. Ms. Sollner-Webb further stated that she is president of the West Laurel Civic Association and the association and other homeowners vehemently oppose the granting of the variance(s). Exhs. 17 and 19 (a) thru (b).

5. Patricio Zamora stated that he was not aware of the existence of the West Laurel Civic Association and never received any advice from it. He contended that in order to store the limousine here, he does not need a special permit because he could just build a garage that is in line with the rules and park the limousine. He stated that the proposed garage would be very long (and odd-shaped) because of the location of the protruding chimney area. He added that with that if the chimney rear area simply remained just paved, it would be dead space and too small on which to build a patio. Exhs. 2, 3 5 (A) thru (G).

6. Paola Velez testified that it is their intention to improve the property to look good esthetically and be functional. She explained that the property was in very poor shape at the time of purchase. Exhs. 2, 3, and 5 (A) thru (G).

7. Patricio Zamora stated that if the variance is not approved, he will have to cut off (the overhanging portion of) the neighbor's tree to protect his vehicles. He stated that the tree issue is his hardship. He further stated that there was no intention to park his limousine in the proposed garage. Exhs. 2, 3, and 5 (A) thru (G).

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.

² She stated that another concern and the concern of many neighbor is a 30-35-foot commercial limousine which is always parked in front of the subject property on the street. She contended that Mr. Zamora has been "cited" for having the commercial vehicle parked on the street. She opined that the proposed (odd-shaped) garage is intended to camouflage the commercial limousine and does not therefore constitute an unusual hardship. She argued that granting the variance will allow the continued parking of Petitioner's commercial vehicle in a residential neighborhood which is illegal, out of character with the neighborhood and undermines the integrity of the R-R Zone.

Findings of the Board

After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variance does not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The Board finds that the Petitioner's lot has no exceptional topography or other conditions peculiar to the property. The Board further finds that the lot is regular in its size, shape and no evidence of any extraordinary situation or uniqueness of the lot was presented.
2. The gravamen of Petitioner's concern seems to be the overhanging of the neighbor's tree on his property resulting in "damage" to his vehicles. Even assuming that the circumstance is extraordinary, Petitioner rightfully indicated that the problem can be remedied by simply trimming back the tree.
3. The Board notes that the narrowness of Gales Street for vehicular parking presumably affects other residents on the street and is not a condition that is, therefore, peculiar to Petitioner and/or his property.
4. Because the conditions of the property are ordinary, the Board does not deem it necessary to consider the other requirements of Section 27-230.

BE IT THEREFORE RESOLVED, unanimously, that a variances of 6 feet side yard width and 20 feet building width in order to validate an existing condition (development) and construct an attached garage on the property located at Lot 15, Block G, McCahill Estates Subdivision, being 16210 Gales Street, Laurel, Prince George's County, Maryland, be and is hereby DENIED.

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 27-234 of the Prince George's County Code states:

If the Board denies an appeal involving a variance, no further appeal covering the same specific subject on the same property shall be filed within the following twelve (12) month period. If the second appeal is also denied, no other subsequent appeals covering the same specific subject on the same property shall be filed within each eighteen (18) month period following the respective denial.

