

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

Petitioner: Lian Zhao

Appeal No.: V-62-19

Subject Property: Lot 42, Block C, New Hampshire Subdivision, being 8323 12th Avenue, Silver Spring, Prince George's County, Maryland

Heard: October 9, 2019; Decided: October 23, 2019

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, Petitioner requests that the Board approve a variance from 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. Section 27-442(i)(Table VIII) which prescribes that accessory buildings shall be set back 2 feet from any side or rear lot line. Section 27-120.01(c) 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. Petitioner proposes to validate an existing condition (dwelling) and construct an extension of the driveway. Variances of 4.6% net lot coverage and 1.5 feet rear lot line setback, waiver of the rear yard location requirement for an accessory building (shed)¹, and a waiver for the parking area location requirement are requested.

Evidence Presented

1. The property was subdivided in 1950, contains 3,750 square feet, is Zoned R-35 (One-Family Semidetached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 2, 3, 7, 8 and 9 (A) thru (F).

2. The property is developed as a semi-detached dwelling on a lot that is very narrow and long. Exhs. 2, 3 and 7 (A) thru (F).

3. Petitioner would like to expand the existing driveway to 10 x 22 feet. The proposed expansion will create an overage of the allowable net lot coverage that will require a variance of 4.6%. Because the expansion will be located in front of the house, a waiver of the parking area location is also requested. The property includes a shed that is .5 feet from the rear property line that requires a variance of 1.5 feet rear yard setback. Exhs. 2, 4. (A) thru (G), and 5 (A) thru (F).

4. Petitioner Lian Zhao testified that the duplex is rental property and he would like to be able to park two cars in the in a driveway. He stated that 7 feet of the proposed expansion will be located in front of the dwelling. Exhs. 2, 4. (A) thru (G), and 5 (A) thru (F).

¹ The request for a waiver of the rear yard location requirement for an accessory building was erroneously incorporated in the request for variance. A waiver is not required.

5. It was offered that, as an alternative solution, an elongated driveway (one parking space in front of the other) be placed on the side yard where the original driveway is located. Mr. Zhao stated that he does not want to have to park one car in front of the other because of the "inconvenience" of moving one automobile to allow the other to exit/enter. Exh. 20

6. Mr. Zhao stated that several of his neighbors have double asphalt driveways in the front area, but he does not know if they were legally permitted. Exhs. 2, 4. (A) thru (G), 5 (A) thru (F) and 7 (A) thru (F).

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 does not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The Board finds that no exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property was presented by Petitioner.
2. Because the conditions of the property are ordinary, the Board does not deem it necessary to consider the other requirements of Section 27-230.
3. The Board does not find a hardship and notes that that a viable alternative to the front yard parking was introduced but Petitioner believes that an extended side yard driveway would cause an "inconvenience."

BE IT THEREFORE RESOLVED, unanimously, that a variance 4.6% net lot coverage, 1.5 feet rear lot line setback, and a waiver for the parking area location requirement in order to validate an existing condition (dwelling) and construct a driveway extension of the driveway on the property located at 8323 12th Avenue, Silver Spring, 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.