

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

Petitioner: Ricardo Cardenas

Appeal No.: V-66-19

Subject Property: Lot 11, Block 43, Charlton Heights Subdivision, being 8802 Edmonston Road, Berwyn Heights, Prince George's County, Maryland

Witnesses: Carmen Rodriguez, Resident (subject property)  
Scott Smith, Neighbor

Municipality: Town of Berwyn Heights

Spanish Language Interpreter Services: Ernesto Luna  
Ruben Sotogomez

Heard: August 7, 2019; Decided: November 20, 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(e)(Table IV) which prescribes that each lot shall have a side yard at least 7 feet in width. 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. Petitioner proposes to validate an existing condition (dwelling) and construct a parking pad/driveway. A variance of 3 feet side yard width and a waiver of the parking area location requirement are requested.<sup>1</sup>

**Evidence Presented**

1. The property was subdivided in 1931, contains 11,000 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and shed. Exhibits (Exhs.) 2, 3, 6, 7 and 8 (A) thru (F).

2. Petitioner would like to construct a driveway on Lot 11. A variance of 3 feet side yard width is requested. In addition, the proposed driveway will be located in front of the dwelling, therefore, a waiver of the parking area location was requested. Exhs. 2 and 5 (A) thru (D).

3. Petitioner Ricardo Cardenas stated that he needs a parking area on Lot 11 because the existing parking area is on Lot 12 which he is selling. Exhs. 2 and 5 (A) thru (D) and 20.

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<sup>1</sup> Petitioner's request was originally reviewed together as two lots (11 and 12; Block 43). Because the Petitioner is only utilizing lot 11 for development and will be selling lot 12, revised calculations determined that a side yard setback of 3 feet is required for lot 11. The revised variance request to include the side yard setback request was re-advertised and re-scheduled for the hearing on November 20, 2019. Exh. 16.

4. Scott Smith, (8736 Edmonston Road) explained originally the dwelling and driveway were considered on the property, but 7 or 8 years ago, a chain link fence dividing the two lots was erected by the prior property owner. He explained that now you functionally have a driveway without a house on one lot and a house without a driveway on the other lot. Exh. 20

5. Carmen Rodriguez (8802 Edmonston Road) stated that no one is living in the house because of flooding and the house is being repaired. Exhs. 2, 5 (A) thru (D) and 20.

6. The Town of Berwyn Heights supported the variance/waiver request with the conditions that the driveway be no larger than 12' x 13 and a physical barrier be installed at the end of the driveway. The revised site plan showed changes to meet the conditions. Exhs. 12 and 20.

#### 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 pre-existing location of the dwelling on Lot 11, the dwelling is in need of repair because of flooding, the anticipated need for a driveway because of the sale of Lot 12, 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 a variance of 3 feet side yard width and a waiver of the parking area location requirement in order to validate an existing condition (dwelling) and construct a proposed parking pad/driveway on the property located at 8802 Edmonston Road, Berwyn Heights, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 20.

#### 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.