

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

Petitioner: Eusebio Larios

Appeal No.: V-106-19

Subject Property: Lot 56 and 57, Block 65, Greater Capitol Heights Subdivision, being 1208 Drum Avenue, Capitol Heights, Prince George's County, Maryland

Spanish Language Interpreter Service: Ruben Sotogomez

Heard and Decided: February 19, 2020

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 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 variances from Section 27-442(b)(Table I) prescribes that each lot shall have a minimum net lot area of 5,000 square feet. Section 27-442(d)(Table III) prescribes that each lot shall have a minimum width of 55 feet measured along the front building line. Section 27-442(e)(Table IV) prescribes that each lot shall have a front yard at least 25 feet in depth. Section 27-442(e)(Table IV) prescribes that each lot shall have a side yard at least 5 feet in width. Section 27-442(c)(Table II) prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking. 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 existing conditions (property and dwelling) and obtain a building permit for a proposed driveway partially located in front of the house. Variances of 1,000 square feet net lot area, 15 feet front building line width, 8 feet front yard depth, 5 feet side yard width, 2% net lot coverage and waiver of the parking area location requirement are requested.

Evidence Presented

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

1. The property was subdivided in 1909, contains 4,000 square feet, is zoned R-55 (One-Family Detached Residential), and is improved with a single-family dwelling and a driveway. Exhibits (Exhs.) 2, 3, 6, 7 and 8 (A) thru (F). The lot is only 40 feet in width with the dwelling situated on the right side, predominately on Lot 56. Ext. 2.

2. The house sits up on a knoll in the front yard and a portion of the side yard slopes down toward the street. Exhs. 2 and 4 (A) thru (E).

3. Petitioner proposes to validate existing conditions (lot size and dwelling location) and obtain a building permit for a proposed driveway partially located in front of the house. The subject lot was created in 1909 with the dwelling being built in 1954 and does not meet the current zoning regulations. Variances of 1,000 square feet net lot area, 15 feet front building line width, 8 feet front yard depth, 5 feet side yard width

are requested. Due to the size and location of the proposed extended driveway, variances of 2% net lot coverage and a waiver of the parking area location are requested. Exhs. 2 and 4 (A) thru (E).

4. Petitioner Eusebio Larios stated that he is requesting the variance in order to obtain a permit for a driveway.¹ He further stated that it is very difficult to park on the street as the street slopes downward. He stated that there are other homes with extended driveways in the neighborhood. He explained that the driveway will be built to the left of the dwelling, but because of the slope a retaining wall will be needed. Exhs. 2, 4 (A) thru (E) and 15.

5. No residential driveway apron may be closer than three and one-half (3 1/2) feet to the nearest abutting property line, therefore the driveway entrance must be in front of the dwelling.

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 property being narrow, the topography sloping in the front and side yards of the dwelling, the driveway entrance requirement of three and one-half feet 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, by majority vote, Ms. Anastasia Johnson absent, that variances of 1,000 square feet net lot area, 15 feet front building line width, 8 feet front yard depth, 5 feet side yard width, 2% net lot coverage and waiver of the parking area location requirement in order to validate existing conditions (property and dwelling) and obtain a building permit for a proposed driveway partially located in front of the dwelling on the property located at 1208 Drum Avenue, Capitol Heights, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance(s) is contingent upon development in compliance with the approved revised site plan, Exhibit 15.

¹ On November 6, 2019, this appeal was heard before the Board and held open for re-advertisement to include the parking location waiver. The original site plan demonstrated a driveway (22' x 15') in front of the dwelling. Exh. 2. In the interim, Petitioner reconfigured the driveway so only a portion of the driveway would be in front of the dwelling and extended to the side of the dwelling. Exh. 15.

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.