

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

Petitioner: Juan Miranda

Appeal No.: V-112-19

Subject Property: P/O Parcel 135, Map 0113, Grid 00E4, being 9637 Foote Road, Fort Washington,
Prince George's County, Maryland

Witnesses: Clairmont Elvis, Contractor

Troy T. White, Neighbor

Heard: November 20, 2019; Decided: December 4, 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 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(b)(Table I) which prescribes that each lot shall have a minimum net lot area of 20,000 square feet. Petitioner proposes to validate an existing condition (property)¹ and obtain a building permit for a proposed two-story dwelling with basement, driveway and porch with steps. A variance of 438 square feet net lot area is requested.

Evidence Presented

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

1. The property was subdivided by deed in 2007, contains 19,562 square feet, is zoned R-R (Rural Residential), and is currently vacant. Exhibits (Exhs.) 2, 5, 6, 7, 8 and 9 (A) thru (F).
2. Petitioner would like to construct a proposed two-story single-family dwelling with basement, driveway and porch with steps. Currently, the minimum net lot area requirement of 20,000 square feet is not being met, therefore, a variance of 438 square foot net lot area is requested. Exhs. 2, 5, 6, 7, 8 and 9 (A) thru (F).
3. Petitioner Juan Miranda stated that he would like to construct a new house on the property he purchased one year ago. Exhs. 2, 3 (a) thru (c) and 4.
4. Clairmont Elvis stated that the variance is needed due to the "road taking" by the County in 2009.² Originally, the property met the current minimum allowable net lot area. Exhs. 2 and 17.
5. Mr. Troy White, who lives at 9635 Fort Foot Road, stated that he does not have an issue with the proposed development, he wants to be assured that the property will be built with no water issues.

¹ Notice of Hearing incorrectly stated that validation of an existing garage was needed. Parcel 135 is currently unimproved with no structures on the property. Exh. 2.

² Under Prince George's County Road Dedication Case #456-50, Fort Foote Road, P/O Parcel 135, as described and recorded under Liber 30968, Folio 439 recorded among Land Records; the County acquired land for the widening of Fort Foote Road reducing the square footage of the subject lot. Exhs. 2 and 17.

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 Prince George's County Road Dedication Case #456-50, dedicating a total of 2,215 to the widening of Fort Foote Road 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 438 square feet net lot area in order obtain a building permit for a proposed two-story dwelling with basement, driveway and porch with steps on the property located at 9637 Foote Road, Fort Washington, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exh. 2 and approved elevation plans, Exhs. 3 (a) thru (c).

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.