

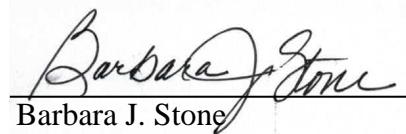
NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-25-18 Jorge Melgar and Nelda Hernandez

Enclosed herewith is a copy of the Board Order setting forth the action taken by the Board of Appeals in your case on the following date: May 23, 2018 .

CERTIFICATE OF SERVICE

This is to certify that on June 7, 2018 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Barbara J. Stone
Administrator

cc: Petitioner
 Adjoining Property Owners
 M-NCPPC, Permit Review Section
 DPIE/Building Code Official, Permitting
 DPIE/Inspections Division
 Ernesto Luna, Spanish Language Interpreter

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

Petitioner: Jorge Melgar and Nelda Hernandez

Appeal No.: V-25-18

Subject Property: Lot 1, Block A, Allen Gayle Acres Subdivision, being 10013 Allentown Road, Fort Washington, Prince George's County, Maryland

Heard: May 9, 2018; Decided: May 23, 2018

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 variances from Section 27-442(e)(Table IV), which prescribes that each lot shall have ;shall be set back 2 feet from any side lot line; and 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 existing conditions (dwelling and shed) and obtain a building permit for a new driveway extension in the front yard. Variances of 2 feet side yard width for the dwelling, 1-foot side lot line setback for an accessory building, and a waiver of the parking area location requirement are requested.

Evidence Presented

1. The property was subdivided in 1964, contains 10,023 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 2, 3, 8, 9 and 10 (A) thru (F).

2. The property is odd shaped and being wider in the front than the rear due to the curvature of Allentown Road. Exhs. 2 and 3.

3. Petitioner would like to obtain a building permit for a new 22' x 20' driveway extension in front of the dwelling. Exhs. 2, 4 (A) thru (D) and 13.

3. Section 27-120.01(c) states that construction of driveways not leading to a carport or garage is not permitted in the area of the front yard between the front street line and the sides of the dwelling. Since part of Petitioner's driveway is located in this area of the front yard, a waiver of the parking area location requirement was requested. Exhs. 2, 4 (A) thru (D) and 13.

4. The existing dwelling is located 6 feet from the left side lot line and the existing shed is located 1 foot from the right-side lot line. Variances of 2 feet side yard width for the dwelling and 1-foot side lot line setback for an accessory building were requested. Exhs. 2, 4 (A) thru (D) and 13.

5. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued a Correction Order on March 1, 2018 requiring Petitioner to obtain a building permit for a driveway extension. On March 17, 2018, Building Violation Notice No. 10256-2018 was issued requiring Petitioner to "Obtain

the required Building permit(s) for work done . . . or remove the same. Work includes but not limited to extension of driveway with asphalt." Exhs. 5, 6 and 11.

6. Petitioner Jorge Melgar testified that the pre-existing original driveway¹ was gravel which he expanded by 19' x 11' into the front of the dwelling. He explained that the original and additional driveway was paved with asphalt because gravel was destroying the wooden floors at the entrance of his house. Exhs. 2, 4 (A) thru (D) and 10 (A) thru (D).

7. He further stated that because Allentown Road is a main road, which has heavy traffic, it is unsafe to park on the street. In addition, the subject property is located on a curved portion of Allentown Road across from Friendly High School. Exhs. 2 and 10 (A) thru (F).

8. Petitioner agreed to reduce the size of the driveway/walkway area. Exh. 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 odd shape of the property, being located on a heavily traveled road on a curve 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 owners of the property.

BE IT THEREFORE RESOLVED, unanimously, that variances of 2 feet side yard width for the dwelling, 1 foot side lot line setback for an accessory building and a waiver of the parking area location requirement in order to validate existing conditions (dwelling and shed) and obtain a building permit for a new driveway extension in the front yard on the property located at Lot 1, Block A, Allen Gayle Acres Subdivision, being 10013 Allentown Road, Fort Washington, Prince George's County, Maryland, be and are 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

¹ The original driveway was already located partially in the front yard. Exh. 2.

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.