

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

Petitioners: Gilda and Noel Gonzalez

Appeal No.: V-40-18

Subject Property: Lot 64, Block B, Wood Manor Subdivision, being 5833 36th Avenue, Hyattsville,
Prince George's County, Maryland

Municipality: City of Hyattsville

Witnesses: Jennifer Gonzalez, Daughter

Fernando Gonzalez, Son

Heard: June 13, 2018; Decided: July 25, 2018

Board Members Present and Voting: 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, Petitioners request that the Board approve a variance from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a front yard at least 25 feet in depth; Section 27-442(c)(Table II), which prescribes that not more than 40% of the net lot area shall be covered by buildings and off-street parking; 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. Petitioners propose to validate an existing condition (existing development, dwelling, driveway) and construct a driveway extension, with retaining walls, in the front yard of a through lot. Variances of 4 feet front yard depth for the dwelling, 8.5% net lot coverage and a waiver of the parking area location requirement are requested.

Evidence Presented

1. The property was subdivided in 1954, contains 2,000 square feet, is zoned R-20 (One-Family Triple-Attached Residential) and is improved with a triple-attached single-family dwelling. The property is a thru lot located within the Gateway Arts District Development Overlay Zone. Exhibits (Exhs.) 2, 3, 7, 8 and 9 (A) thru (F).

2. Petitioners would like to construct a 4' x 20' driveway extension, with retaining walls up to 3 feet in height, in front of the dwelling. As 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, a waiver of the parking area location requirement was requested. Exhs. 2, 4 (A) thru (D) and 11.

3. The existing covered front porch is located 21 feet from the front street line abutting 36th Avenue and, as the existing development on the property exceeds the amount of lot coverage allowed, construction of the driveway will be further overage. Therefore, variances of 4 feet front yard depth for the dwelling and 8.5% net lot coverage were requested. Exhs. 2, 4 (A) thru (D) and 11.

4. The City of Hyattsville has provided written response in favor of the variances. Exhs. 15 and 20.

5. Petitioners explained that the prior driveway on 36th Avenue was blocked off (by the County) because of the new curbing on 36th Avenue, which effectively eliminated the Petitioners' use of the prior driveway. Exhs. 2, 4 (A) thru (D) and 5.

6. Jennifer Gonzales stated that her mother would like validation of the stairs beside the driveway which were relocated along the front of the house in order to expand the driveway. In addition, she explained that the "new" existing driveway on Queens Chapel Road was 10' x 20' and was expanded to 14' x 20' because of the narrow width of the driveway with the retaining walls on each side of the driveway. The retaining wall prohibited the opening of the car doors causing passengers to exit the vehicle prior to pulling into the driveway. Exhs. 2 and 4.

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 Petitioners' prior driveway being blocked off because of new curbing on 36th Avenue, the new driveway on Queens Chapel Road being expanded because of the narrow width of the driveway with retaining walls 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 4 feet front yard depth for the dwelling, 8.5% net lot coverage and a waiver of the parking area location requirement in order to validate an existing condition (existing development, dwelling, driveway) and construct a 14' x 20' driveway extension, with retaining walls up to 3 feet in height, in the front yard of a through lot on the property located at Lot 64, Block B, Wood Manor Subdivision, being 5833 36th Avenue, Hyattsville, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 2.

BOARD OF ZONING APPEALS

By: (ORIGINAL SIGNED)

Albert C. Scott, Vice Chairman

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.