

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

Petitioner: Jose Herrera

Appeal No.: V-42-18

Subject Property: Lot 55, Block B, Wood Manor Subdivision, being 5815 36th Avenue, Hyattsville,
Prince George's County, Maryland

Municipality: City of Hyattsville

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, Petitioner requests that the Board approve variances from 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. Petitioner proposes to validate an existing condition (existing development) and construct a driveway, with retaining walls, in the front yard of a through lot. A variance of 19.3% net lot coverage and a 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 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 through-lot located within the Gateway Arts District Development Overlay Zone. The property is located on a steep slope (incline). Exhibits (Exhs.) 2, 3, 7, 8 and 9 (A) thru (F).

2. Petitioner would like to construct a 17' x 21' driveway, with retaining walls up to 2 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 (C) and 11.

3. The existing development on the property exceeds the amount of lot coverage allowed and construction of the driveway will be further overage. Therefore, a variance of 19.3% net lot coverage was requested. Exhs. 2, 4 (A) thru (C) and 11.

4. The City of Hyattsville has voted to support the variance. Exhs. 15 and 20.

5. Petitioner Jose Herrera stated that he is requesting permission to construct a driveway in the front of his house. Because the dwelling is located within a triple attached subdivision, the lot frontage is only 17 feet wide. In addition, the slope of the front yard requires retaining walls. Exhs. 2, 4 (A) thru (C).

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 variances complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the narrow width of the front yard being only 17 feet, the topography 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. Bobbie Mack absent, that a variance of 19.3% net lot coverage and a waiver of the parking area location requirement in order to validate an existing condition (existing development) and construct a 17' x 21' driveway, with retaining walls up to 2 feet in height, in the front yard of a through lot on the property located at Lot 55, Block B, Wood Manor Subdivision, being 5815 36th Avenue, Hyattsville, 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, Exhibit 2.

BOARD OF ZONING APPEALS

By: (ORIGINAL SIGNED)

Albert C. Scott, Vice ChairmanNOTICE

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.