

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

Petitioner: Jesus Lopez

Appeal No.: V-101-18

Subject Property: Lot 1, Block A, Beacon Heights Subdivision, being 5619 67th Avenue, Riverdale,
Prince George's County, Maryland

Spanish Language Interpreter Services: Julie Rotter

Witness: Sandra Parks, Neighbor

Heard and Decided: October 24, 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) 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 30% of the net lot area shall be covered by buildings and off-street parking; and Section 27-420(a), which prescribes that on lots consisting of one (1) acre or less, fences and walls in the front yard shall not be more than four (4) feet high without the approval of a variance. Petitioner proposes to validate an existing condition (dwelling) and construct a driveway with a retaining wall up to 6 feet in height in the front yard. Variances of 2.5 feet front yard depth and 2.2% net lot coverage and waivers of the fence location and height requirements for a retaining wall over 4 feet in height in the front yard are requested.

Evidence Presented

1. The property was subdivided in 1952, contains 5,753 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits (Exhs.) 2, 3, 9, 10 and 11 (A) thru (F).

2. Petitioner would like to construct a 10' x 50' driveway along the right side of the dwelling. He would also like to construct a retaining wall, up to 6 feet in height, along the front half of the driveway on the left and up to 4 feet in height along the front half of the driveway on the right. Construction of the driveway would exceed the amount of lot coverage allowed and the retaining wall over 4 feet would exceed the height restriction. Therefore, a variance of 2.2% net lot coverage and waivers of the fence location and height requirements for a retaining wall over 4 feet in height in the front yard were requested. Exhs. 2, 4, (A) thru (E) and 5.

3. The existing covered front porch is located 22.5 feet from the front street line for which a variance of 2.5 feet front yard depth was also requested. Exhs. 2 and 4 (A) thru (E).

4. The Department of Permitting, Inspections and Enforcement (DPIE), Enforcement Division, issued CSD Case No. 18-00079211, dated July 24, 2018, requiring Petitioners to "Provide and display in a conspicuous location numerals at least four inches in height designating the building numbers in sequence. Such numbers shall be placed facing each vehicular access route and to remove items in exterior property

area being stored and maintain premises in a clean and sanitary condition." DPIE/Inspections Division left an Important Notice on July 25, 2018 at the subject property regarding the driveway. Exhs. 6 and 7.

5. Petitioner Jesus Lopez explained that the existing driveway only allows one vehicle to be parked and is requesting permission to extend the driveway. The Petitioner believes that by removing the current driveway (and gravel) on the left side, he could build an extended driveway on to the right of the property. Exhs. 2 and 4 (A) thru (E).

6. He further stated that because the land slopes on the property, retaining walls along both sides of the proposed driveway are necessary. He explained that because of the slope, the retaining wall on the left of the driveway will graduate from 8 inches to 6 feet and the one on the right will graduate from 8 inches to 4 feet. Exhs. 2 and 4 (A) thru (E).

7. Mr. Lopez explained that both the old concrete driveway as well as the gravel area will be removed. (A revised site plan was submitted)¹. He stated grass will be planted in both areas. Exhs. 22 and 4 (A) thru (E).

8. Ms. Sandra Parks (6700 Ingraham Street) stated that she owns property next to Petitioner. She stated that 67th Avenue is a hill and is terrible when it comes to heavy rain. She disclosed that numerous houses flood on a regular basis. She explained that her house is located at the bottom of the hill, which is like a bowl, and all the water ends up in her property. She is hoping that the proposed retaining walls that Petitioner is requesting to be constructed will help alleviate her water problem which has become a physical and financial burden.

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 topography (sloping) of the property, need for additional parking, the need to mitigate water runoff 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 variances of 2.5 feet front yard depth and waivers of the fence location and height requirements for a retaining wall over 4 feet in height in the front yard in order to validate an existing condition (dwelling) and construct a 10' x 50' driveway with a retaining wall up to 6 feet in height in the front yard on the property located at Lot 1, Block A, Beacon Heights Subdivision, being 5619 67th Avenue, Riverdale, 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 22.

¹ Lot coverage will be reduced by 403 square feet, therefore the need for 2.2% lot coverage variance is negated.

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.