

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

Petitioners: Ivon Urizar and Prudencia Perez

Appeal No.: V-123-18

Subject Property: Lot 29, Block A, Knollwood Subdivision, being 10417 Edgefield Drive, Hyattsville,
Prince George's County, Maryland

Witnesses: Clairmonte Elvis, Contractor
Brian Pascale, Neighbor
Kay McGraw, Neighbor

Heard: November 28, 2018; Decided: January 23, 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, Petitioners request that the Board approve variances from Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from the front street line, 10 feet from the rear lot line and generally be located only in the rear yard; Section 27-420(a), which prescribes that on corner lots consisting of one (1) acre or less, walls in the front yard shall not be more than four (4) feet high without the approval of a variance; 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 (sheds, driveway, retaining walls) and obtain a building permit for a new driveway in the side yard of a corner lot, retaining walls and shed. A variance of 5 feet rear lot line setback for one accessory building, a variance of 6 feet front street line setback and a waiver of the rear yard location requirement for a second accessory building, variances of .7 inches for one retaining wall (Oakhill Court) and 1.7 feet for a second retaining wall (Edgefield Drive) 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 1951, contains 10,066 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and two sheds. Exhibits (Exhs.) 2, 3, 8, 9 and 10 (A) thru (F).
2. Petitioners would like to validate existing conditions (2 sheds, 2 retaining walls and driveway location) and obtain all appropriate building permits. Exhs. 2, 4 and 5.
3. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued a Correction Order, dated May 2, 2018, informing Petitioners that they "Need to obtain permit for the driveway extension, retaining wall higher than 2 feet and accessory structures in the back yard". Exh. 6.

4. Petitioner Ivon Urizar testified that all structures existed at the time of purchased of the property. Exhs. 2, 4 and 5.

5. Kay McGraw (10409 Edgefield Drive) opined that the variances should not be granted simply because the existing illegal conditions preceded the Petitioners' purchase of the property. She testified that the Petitioners were using the driveway for illegal car (repair) services and their yard is unkept with debris and overgrown vegetation. In addition, she testified that there is a concrete driveway in the rear yard leading to a large shed. She further stated that there is too much concrete on this property. Exhs 2 and 20.

6. Mr. Pascal (1425 Oak Hill Court) stated that he lives next to the subject property. He further stated that neighborhood driveways, including Petitioners' driveway, were built without permits, a problem that the County has not addressed. He also opposed the variances.

7. Petitioner Ivon Urizar stated that the only cars that are worked on at the subject property belong to Petitioners and the debris has been cleaned up. She further stated that all of the items were removed from the front of the property, the rear yard has been cleaned up and the debris will be removed. She stated that the large shed is used as a garage (there is a car in the shed), and the small shed is used for storage. Exhs. 2, 4 and 5.

8. The Board requested Petitioners to submit photographs showing the cleanup of the rubbish and a revised site plan demonstrating that the rear driveway and driveway entrance would be removed. A plan of corrective action was also requested.¹

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 does not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The Board finds that Petitioners' lot has no exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property. The pre-existence of illegal conditions caused by previous owners does not, in themselves, constitute extraordinary situations or conditions on the subject property.

2. Because the conditions of the property are ordinary, the Board does not deem it necessary to consider the other requirements of Section 27-230.

¹ Petitioners did not submit the requested photographs, revised site plan and a plan of action.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 5 feet rear lot line setback for one accessory building, a variance of 6 feet front street line setback and a waiver of the rear yard location requirement for a second accessory building, variances of .7 inches for one retaining wall (Oakhill Court) and 1.7 feet for a second retaining wall (Edgefield Drive) and a waiver of the parking area location requirement in order to validate existing conditions (sheds, driveway, retaining walls) and obtain a building permit for a new 18.5 x 26' driveway in the side yard of a corner lot, retaining walls up to 5'7" and 12' x 30' shed on the property located at Lot 29, Block A, Knollwood Subdivision, being 10417 Edgefield Drive, Hyattsville, Prince George's County, Maryland, be and are hereby DENIED.

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 27-234 of the Prince George's County Code states:

If the Board denies an appeal involving a variance, no further appeal covering the same specific subject on the same property shall be filed within the following twelve (12) month period. If the second appeal is also denied, no other subsequent appeals covering the same specific subject on the same property shall be filed within each eighteen (18) month period following the respective denial.