

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

Petitioners: Joel Hernandez and Jose Pereira

Appeal No.: V-142-18

Subject Property: Lot 54, Oak Knoll Subdivision, being 2810 West Avenue, District Heights,  
Prince George's County, Maryland

Spanish Language Interpreter: Ernesto Luna

Heard: February 27, 2019; Decided: March 20, 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(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a side yard at least 8 feet in width; Section 27-442(c)(Table II), which prescribes that not more than 25% of the net lot area shall be covered by buildings and off-street parking; Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 5 feet from an alley 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. Petitioners propose to validate existing conditions (dwelling, development, 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, 5.2% net lot coverage, 3 feet alley setback for an accessory building and a waiver of the parking area location requirement are requested.

**Evidence Presented**

1. The property was subdivided in 1939, contains 11,250 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, shed, patio and driveway. Exhibits (Exhs.) 2, 3, 7, 8 and 9 (A) thru (G)

2. Petitioner would like to construct a new 12' x 39' driveway extension. Exhs. 2, 4 (A) thru (H) and 18.

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 (H) and 18.

4. Petitioner Jose Pereira stated that additional parking area for vehicles is needed and the subject area is gravel and has not been completed. Exhs. 2, 4 (A) thru (H) and 18.

5. Petitioners received a "Consent Order to Enforce Compliance with Code", Case No. SP05-02-8116-18 on November 05, 2018. Ordering the Petitioners "to obtain the required permit(s) for work done at

the above reference property or remove the same. Work includes, but is not limited to, gravel extended driveway installed without the required permits and inspections". Exh. 5

6. Petitioner Joel Hernandez stated that there is a large tree that is located in the subject area that limits the number of vehicles that can be parked. Exhs. 2, 4 (A) thru (H) and 18.

7. Petitioner submitted a revised site plan reducing the width of the proposed expanded driveway to 12', thereby reducing the lot coverage need to .9%. Exh. 19.

#### 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 need for additional parking, **location of a large tree ???? 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, .9% net lot coverage, 3 feet alley setback for an accessory building and a waiver of the parking area location requirement in order to validate existing conditions (dwelling, development, shed) and obtain a building permit for a new 12' x 39' driveway extension in the front yard on the property located at Lot 54, Oak Knoll Subdivision, being 2810 West Avenue, District Heights, 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 18.

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.