

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-37-14 Melanie Moore

Enclosed herewith is a copy of the Board Order setting forth the action taken by the Board of Appeals in your case on the following date: June 4, 2014.

CERTIFICATE OF SERVICE

This is to certify that on June 17, 2014, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)

Anne F. Carter
Administrator

cc: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting

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

Petitioner: Melanie Moore

Appeal No.: V-37-14

Subject Property: Lot 27, Block EE, Jessica's Addition to Marlton Subdivision, being 8702 Ashby Court,
Upper Marlboro, Prince George's County, Maryland

Heard and Decided: June 4, 2014

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 rear yard at least 20 feet in depth/width, and 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. Petitioner proposes to validate an existing condition and construct a deck and steps. Variances of 9 feet rear yard depth/width and .7% net lot coverage are requested.

Evidence Presented

The following testimony and record evidence were considered by the Board:

1. The property was subdivided in 1992, contains 12,474 square feet and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 4, 7 and 8. The existing dwelling was built in 2004. Exhs. 7 and 8.
2. The property is located in a Planned Community (R-P-C Zone), the underlying zone being the R-80 (One-Family Detached Residential) Zone. Exhs. 1, 8 and 15.
3. The property is a pie-shaped lot located on a cul-de-sac. Exhs. 2, 4 and 9(A). The driveway extends into the left side yard and the rear yard is shallow. Exh. 2.
4. Petitioner would like to construct a 12' x 16' deck and steps on the back of the house, but variances are needed to obtain a building permit. Since the deck would be located only 11 feet from the rear lot line, a variance of 9 feet rear yard depth/width was requested. Exh. 12.
5. A variance is also needed because existing development on the property causes the allowed amount of net lot coverage to be exceeded. A variance of .7% net lot coverage was requested to validate this existing condition. Exhs. 11 and 12.
6. Petitioner testified that she currently has to do her "outdoor entertaining" in her driveway (Exh. 23) because the steep slope in her back yard prevents building a patio in the rear. Exh. 21. She explained that the proposed deck would allow her to maximize the (social) use of her back yard, extend living space and enhance her enjoyment of the view of the woods located behind her house. Exhs. 21 and 22. She believes a tree conservation area behind her home precludes any housing development and the proposed deck therefore will not impact the rear adjoining property. Exh. 18.

7. Petitioner further testified that none of the neighboring properties contain a slope like the one on her property. She testified that the slope on her property is so steep that it has caused her to fall while cutting the grass.

8. There is an existing sliding door on the house that is above grade, which currently cannot be used as an exit, which will be used to access the deck. Exh. 5.

9. The Historic Preservation Section of the Maryland-National Capital Park and Planning Commission commented that although the subject property is located approximately 25 feet from Historic Site 82A-012 (Trumps Hill), the subject request has no effect on Historic Sites or Historic Resources. Exh. 17.

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

Due to the unusual shape of the property, the sloping topography in the rear of the lot in comparison to adjoining properties, the shallowness of the rear yard, the property being located on a cul-de-sac, there being a conservation area to the rear of the property, the deck providing an additional safety exit from the house, existing development causing the allowed amount of net lot coverage to be exceeded, 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 9 feet rear yard depth/width and .7% net lot coverage in order to validate an existing condition and construct a 12' x 16' deck and steps on the property located at Lot 27, Block EE, Jessica's Addition to Marlton Subdivision, being 8702 Ashby Court, Upper Marlboro, 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, and the approved elevation plans, Exhibits 3(a) and (b).

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.