

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-39-15 Vincent and Haydee Estrella

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 10, 2015.

CERTIFICATE OF SERVICE

This is to certify that on July 22, 2015, 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: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Woodside Estates Homeowners Association

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

Petitioners: Vincent and Haydee Estrella

Appeal No.: V-39-15

Subject Property: Lot 8, Block B, Woodside Estates Subdivision, being 7007 Shagbark Court, Fort Washington, Prince George's County, Maryland

Witness: Nicholas Capuano, Hannick Construction

Heard: May 27, 2015; Decided: June 10, 2015

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 a variance 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 a variance 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. Petitioners propose to construct a deck with landing and steps to replace an existing deck. A variance of 10 feet rear yard depth/width is requested.

Evidence Presented

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

1. The property was subdivided in 1996, contains 10,037 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 4, 7 and 8. The property is located within an approved cluster subdivision. Exh. 4. The existing dwelling was built in 2005. Exhs. 7 and 8.

2. The property has a shallow rear yard and an angled rear property line. Exh. 2.

3. Petitioners would like to construct a 16' x 34' deck with a 4' x 4' landing and steps to replace an existing deck, but a variance is needed to obtain a building permit. Since the proposed deck would be located 10 feet from the rear lot line, a variance of 10 feet rear yard depth/width was requested. Exh. 11.

4. Nicholas Capuano, Petitioners' contractor, explained that when Petitioners purchased the property, the existing small deck needed repair. Exhs. 5(A) through (C). He stated that Petitioners, who have three children, would like to replace the old deck with a new one that extends across the back of the house, but discovered that one side of the rear of the existing house is too close to the rear setback line and a variance would be required.

5. Mr. Capuano further stated that the property behind the subject property is wooded and owned by the management company. Exhs. 10(A) through (E).

6. Petitioner Vincent Estrella stated that there is a dry creek on the other side of the wooded area.

7. Woodside Homeowners Association approved the request before the Board. Exh. 20.

8. The Subdivision Section of the Maryland-National Capital Park and Planning Commission reviewed the request and commented: Exhibit 2 (house location drawing) correctly reflects the bearings,

distances and lot size shown on the record plat (Lot 8, Block B in Woodside Estates Subdivision, Plat Book VJ 175-97). The property is subject to Preliminary Plan of Subdivision 4-92042 for a cluster development. The proposed development does not alter the land uses described in the Preliminary Plan and, therefore, conforms to Note 6 of the record plat. Section 27-229(b)(27) grants the Board of Appeals the authority to grant variances for home improvements in cluster developments. 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 variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the location of the existing dwelling on the property, the shallowness of the rear yard, the angle of the rear property line, the existing deck requiring repair, a larger deck being more suitable and safer for Petitioners' family, 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, by majority vote, Ms. Mack absent, that a variance of 10 feet rear yard depth/width in order to construct a 16' x 34' deck with a 4' x 4' landing and steps to replace an existing deck on the property located at Lot 8, Block B, Woodside Estates Subdivision, being 7007 Shagbark Court, Fort Washington, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2, and the approved elevation plans, Exhibits 3(a) through (c).

BOARD OF ZONING APPEALS

By: (Original Signed)
Albert C. Scott, Vice Chairman

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.