

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-40-15 John and Gwendolyn Franklin

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: May 27, 2015.

CERTIFICATE OF SERVICE

This is to certify that on June 8, 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
Reserve Homeowners Association

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

Petitioners: John & Gwendolyn Franklin

Appeal No.: V-40-15

Subject Property: Lot 19, The Reserve Subdivision, being 14408 Waynesford Drive, Upper Marlboro, Prince George's County, Maryland

Heard and Decided: May 27, 2015

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 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 side yard at least 17 feet in width. Petitioners propose to construct a deck which includes covered patio area, covered spa area and covered cooking area. A variance of 2 feet side yard width is requested.

Evidence Presented

1. The property was subdivided in 1989, contains 1.9244 acres of land, is zoned R-A (Residential-Agricultural) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 4, 8 and 9. The existing dwelling was constructed in 2002. Exhs. 8 and 9.

2. The property is one of the smallest lots in the subdivision. Exh. 4. The lot has an unusual tear drop shape, with a curved front street line and a triangular rear yard. Exhs. 2 and 4. Approximately half of the property consists of woodland conservation area. Exh. 2.

3. The existing house is located on the left side of the property. Exh. 2.

4. Petitioners would like to construct a deck (approximately 56' x 66') on the rear of the existing dwelling, but a variance is needed to obtain a building permit. Since the proposed deck, on which is proposed an 18' x 18' covered patio area, 18' x 18' covered spa area and 21' x 29' covered cooking area (see Exhs. 3 and 6), would be located 15 feet from the side lot line, a variance of 2 feet side yard width was requested. Exh. 12.

5. Petitioner John Franklin testified that he and his wife moved to the County in 1988 and constructed the house on the subject property in 2001. He explained that the lot is pie-shaped and there are an extraordinary number of trees on the subject property (Exhs. 10(A) through (G)) which limits the buildable area on the lot. As a result, the proposed deck would be located a tad too close to the property line and a small variance is necessary to allow the construction. *Also see* Exh. 19.

6. Mr. Franklin further testified that additions, including garages, offices and other structures, have been built on other properties in the neighborhood. He stated that their proposed addition would not involve living space but be used purely for their entertainment and enjoyment of the outdoors.

7. He explained that the entrance to the proposed deck will be at the end of their driveway but there will be no steps. He stated that the slope of the rear yard was taken into account in designing their house so that they would have a walk-out basement door, doors leading out of the dining room and master bath, and palladium windows looking out of the living room. Exhs. 5(A) through (D). They have designed the deck to include a covered patio area, a covered hot tub area and a covered area for an outdoor kitchen. Exhs. 2, 3 and 6(a) and (b).

8. He further testified that he has spoken with the only neighbor (owner of Lot 18) whom he feels would be impacted by the variance (*see* Exh. 2) and that person had no objection to the proposed addition.

9. Reserve Homeowners Association approved the proposed construction. Exh. 18.

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 unusual shape of the property, the triangular rear yard narrowing to a point, the small size of the lot relative to other lots in the subdivision, approximately one half of the property consisting of woodland conservation area resulting in less buildable space, the existing house being located on the left side of the property, the slope of the rear yard, 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 a variance of 2 feet side yard width in order to construct a 56' x 66' deck, which includes an 18' x 18' covered patio area, 18' x 18' covered spa area and 21' x 29' covered cooking area on the property located at Lot 19, The Reserve Subdivision, being 14408 Waynesford Drive, Upper Marlboro, 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 plan, Exhibit 3.

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.