

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-88-13 Edwin & Patricia Giles

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: November 6, 2013.

CERTIFICATE OF SERVICE

This is to certify that on November 20, 2013, 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

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

Petitioners: Edwin & Patricia Giles

Appeal No.: V-88-13

Subject Property: Lot 37, Block A, Skyline Hills Subdivision, being 6413 Juanita Court, Suitland,
Prince George's County, Maryland

Witness: Sheila Smith, Medallion Security Door & Window Co.

Heard: October 9, 2013; Decided: November 6, 2013

Board Members Present and Voting: Bobbie S. Mack, Chairperson
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 rear yard at least 20 feet in depth/width, and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 2 feet from any side or rear lot line. Petitioners propose to validate existing conditions and construct a sunroom, deck, landing and steps. Variances of 18.5 feet rear yard depth/width, and .5 foot side and 1 foot rear lot line setbacks for an accessory building are requested.

Evidence Presented

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

1. The property was subdivided in 1983, contains 6,355 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 4, 9 and 10. The existing single family dwelling was built in 1992. Exhs. 9 and 10.

2. The property is located within an approved cluster subdivision. Exh. 4. The property is an odd-shaped lot located on a cul-de-sac. Exhs. 2, 4 and 11(A) through (D).

3. Petitioners would like to construct a 10' x 16' sunroom and a 4.5' x 14'/10' x 12' deck on the rear of the dwelling, with a 4' x 5' landing and steps to the side of the proposed deck and dwelling (Exh. 2), but variances are needed in order to obtain a building permit.¹ Since the deck would be located 1.5 feet from the rear lot line at the closest point, a variance of 18.5 feet rear yard depth/width was requested. Exh. 13.

4. In addition, variances are also needed to validate the existing shed in the rear yard. Since the shed is located 1.5 feet from the side lot line and 1 foot from the rear lot line, variances of .5 foot side lot line setback and 1 foot rear lot line setback for an accessory building were requested. Exh. 13.

¹ The Board approved a rear yard setback variance in 1987 (Appeal No. 8861) to construct the dwelling on the property, and approved a setback variance in 1992 (Appeal No. 11669) to construct a deck on the rear of the house. Exhs. 6 and 7.

5. Sheila Smith, Petitioners' contractor, testified that Petitioners want to replace the 10' x 12' deck (Exhs. 5(C), (E) and (H)), add a screened porch and open catwalk to connect the deck and screened porch. She stated that the strange shape of the lot (Exh. 2) causes the need for the variance, but any proposed structure would not come any closer to the property line than the deck that is being replaced.

6. Petitioner Patricia Giles explained that she desires a screened-in porch because the wooded area behind the subject property is infested with mosquitoes. Exhs. 5(F) and (G), 11(A) through (D).

7. The Subdivision Section of the Maryland-National Capital Park and Planning Commission stated that the lot is subject to a 25-foot building restriction line (BRL) parallel to the front street line along Juanita Court, but no structure is proposed within the recorded BRL. It noted that any new structures that are subject to a building setback are subject to the BRL. The Subdivision Section further commented that pursuant to Section 27-229(b)(27) of the Zoning Ordinance, the ability of the Board of Appeals to grant a variance in a cluster subdivision is limited to any requirement applicable to Home Improvements as defined in Section 27-107.01(a)(117.1).² Exh. 18.

8. Skyline Hills Homeowners Association approved the request. Exh. 21.

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 irregular rear property line, the location of the existing house on the property, the proposed deck replacing an old deck in the same location, the old deck being torn down because of its condition, no new structure coming any closer to the property line than the deck being replaced, the house backing up to a wooded area, the need for protection from mosquitoes, the proposed development constituting home improvements as defined in Section 27-107.01(a)(117.1), 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, Mr. Scott abstaining, that variances of 18.5 feet rear yard depth/width, and .5 foot side and 1 foot rear lot line setbacks for an accessory building in order to validate existing conditions and construct a 10' x 16' sunroom, 4.5' x 15' deck, 10' x 12' deck and 4' x 5' landing and steps on the property located at Lot 37, Block A, Skyline Hills Subdivision, being 6413 Juanita Court, Suitland, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the

² Pursuant to Section 27-107.01(a)(117.1), "Home Improvements" is defined as modifications customarily made to dwellings for the purposes of enlargement, alterations, or the addition of a fireplace, porch, deck, carport, patio, shed, garage, driveway, or swimming pool.

variances 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.