

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-40-13 Frank Pipitone & Amanda Truett

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: July 10, 2013.

CERTIFICATE OF SERVICE

This is to certify that on August 13, 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
Accokeek Development Review District Commission
Moyoane Association

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

Petitioners: Frank Pipitone and Amanda Truett

Appeal No.: V-40-13

Subject Property: Parcel 2, Tax Map 150, Grid D1, being 3100 E. Ridge Road, Accokeek,
Prince George's County, Maryland

Heard and Decided: July 10, 2013

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 20 feet in width. Petitioners propose to construct a one-story addition and deck. A variance of 17.2 feet side yard width is requested.

Evidence Presented

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

1. The property contains 5.89 acres, is zoned O-S (Open Space) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 3, 16 and 17. The existing single-family dwelling was built in 1954. Exhs. 16 and 17.

2. The property was created by deed in 1962. Exh. 6. The property is part of protected lands within the Moyaone Reserve. Exhs. 2 and 7.

3. The existing dwelling is located near the side lot line on the western side of the property. Exhs. 3, 12 and 19(A).

4. Petitioners would like to construct a 19'6" x 12'8"/11'8" x 14'2" one-story addition and 15.7' x 36.5' deck on the side of the existing dwelling and deck. Since the deck would be located only 2.8 feet from the side lot line, a variance of 17.2 feet side yard width was requested. Exh. 21.

5. Petitioner Amanda Truett testified that stairs present a problem for her after recent hip surgeries and Petitioners would like to have all their living space on one level. She also noted that the roof of the dwelling was damaged by snow and would be replaced as part of the construction. She further explained that extending the room will mean extending the deck out and wrapping the deck around the side of the house to steps that would serve as an alternative egress so that she would not have to use only the current stairs.

6. Ms. Truett testified that although they have 5.89 acres of land, theirs is one of the smaller lots in the immediate area. She stated that the existing dwelling is one of the original small houses built in the community.

7. She explained that the proposed location of the development is the most practical area since the foundation already exists on the side where the addition would extend and the septic occupies the area on the other side of the house. She stated that the exterior of the addition will be cedar clapboard to match the rest of the house.

8. Ms. Truett also testified that even though the deck would be close to the property line, it would still be hundreds of feet away from anything because of an adjoining right of way area, which is attached to the deed in perpetuity.

9. After analysis of the property by a Park Ranger, the U.S. Department of the Interior determined that the proposed construction is in compliance with the National Park Service's scenic easement on the property. The proposed construction proposes no tree removals or changes in land use and presents no impact to the historic viewsheds of Mount Vernon and Fort Washington. Exhs. 15 and 29.

10. The Department of Public Works and Transportation ("DPW&T") determined that the private access on the subject property is adequate for the issuance of a building permit. Exh. 14.

11. The Prince George's County Health Department granted a waiver from the requirement to upgrade the existing septic system on the subject property. Exh. 13.

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 house being small and one of the original ones built in the community many years ago, the lot being comparably smaller than most of the lots in the area, the dwelling being located near the side lot line, the need for living space on one level to accommodate Petitioner's physical limitation after surgeries, the construction of an addition being preferable while a damaged roof is also being replaced, extension of the living space resulting in extension of the deck and infringement into the required setback, the foundation already existing on the side where the extension is proposed, the septic system precluding development on the other side of the house, the proposed construction being in full compliance with the National Park Service scenic easement on the property, the proposed construction presenting no impact to the historic viewsheds of Mount Vernon and Fort Washington, the private access on the subject property being determined by DPW&T to be adequate for the issuance of a building permit, 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 17.2 feet side yard width in order to construct a 19'6" x 12'8"/11'8" x 14'2" one-story addition and 15.7' x 36.5' deck on the property located at Parcel 2, Tax Map 150, Grid D1, being 3100 E. Ridge Road, Accokeek, 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 3, and the approved elevation plans, Exhibits 4(a), (b), (c) and (d).

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.