

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-12-14 Sadie McIntosh

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 21, 2014.

CERTIFICATE OF SERVICE

This is to certify that on May 30, 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
DPIE/Inspections Division

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

Petitioner: Sadie McIntosh

Appeal No.: V-12-14

Subject Property: Lot 5, Block J, Melwood Springs Subdivision, being 7208 Purple Avens Avenue, Upper Marlboro, Prince George's County, Maryland

Heard: March 26, 2014; Decided: May 21, 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 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, Petitioner requests 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. Petitioner proposes to validate and obtain a building permit for a new sunroom. A variance of 11 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 1986, contains 11,217 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 4, 10 and 11. The existing single-family dwelling was built in 2001. Exhs. 10 and 11.
2. The property is an odd-shaped corner lot located at the bow of a cul-de-sac. Exhs. 2, 4, 12(A) and (B). The house faces the legal front street and the rear yard is very shallow. Exhs. 2, 12(A) through (F). The property is located within an approved cluster subdivision. Exh. 4.
3. Petitioner received Building Violation Notice No. 43882-2013-1, dated December 19, 2013, from the Department of Permitting, Inspections and Enforcement, requiring Petitioner to obtain a building permit for enclosing an existing screen porch creating a sunroom or remove it. Exh. 7.
4. Petitioner would like to validate the location of a new 12' x 12.2' sunroom and obtain a building permit for the sunroom, but a variance is needed. Because the sunroom is located only 9 feet from the rear lot line, a variance of 11 feet rear yard depth/width was requested. Exh. 14.
5. The Board approved a variance in 2002 (Appeal No. V-72-02) of 11± feet rear yard depth/width to construct Petitioner's deck. Exh. 8.
6. Petitioner testified that she closed in her screened porch and made it a sunroom (Exhs. 5(C) through (H); 6(C), (D) and (E)) without realizing she needed the variance.
7. The Board of Directors of Mellwood Springs Homeowners Association presented no objection to the variance. Exh. 25.
8. The Subdivision Section of the Maryland-National Capital Park and Planning Commission stated that the proposed development does not alter the land uses described in the Preliminary Plan of Subdivision and therefore conforms to Note 2 of the record plat and determined that no other plans of development are applicable and/or have no impact on the review of the request. Exh. 19.

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 property being a corner lot located at the bow of a cul-de-sac, the shallowness of the rear yard, a 11± feet rear setback variance having been approved in 2002 for the deck constructed on the rear of the house, 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 a variance of 11 feet rear yard depth/width in order to validate and obtain a building permit for a new 12' x 12.2' sunroom on the property located at Lot 5, Block J, Melwood Springs Subdivision, being 7208 Purple Avens Avenue, 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 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.