

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-122-15 Robert and Carmilla Stewart

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: December 2, 2015.

CERTIFICATE OF SERVICE

This is to certify that on January 11, 2016, 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
Presidential Heights Homeowners Association, Inc.

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

Petitioners: Robert and Carmilla Stewart

Appeal No.: V-122-15

Subject Property: Lot 9, Block B, Presidential Heights Subdivision, being 10103 Texas Terrace, Upper Marlboro, Prince George's County, Maryland

Heard and Decided: December 2, 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 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(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking. Petitioners propose to validate an existing condition and construct a deck. Variances of 15 feet rear yard depth/width and 1.4% net lot coverage are requested.

Evidence Presented

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

1. The property was subdivided in 1993, contains 8,874 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, 8 and 9. The existing dwelling was built in 2001. Exh. 8.
2. The property is located within an approved cluster subdivision.¹ Exh. 4. The lot is located on a cul-de-sac and is shaped like a pie piece. Exhs. 2, 4, 10(A) through (F).
3. Petitioners would like to construct a 16' x 19'/16' x 19' deck on the rear of the existing dwelling (Exh. 2), but variances are needed to obtain a building permit. Since the deck would be located 5 feet from the rear lot line at the closest point and the past addition of a shed caused the allowed amount of net lot coverage (30%) to be exceeded by existing development on the property, variances of 15 feet rear yard depth/width and 1.4% net lot coverage were requested. Exhs. 12 and 13.
4. Petitioner Carmilla Stewart testified that no other location exists to construct the deck. *See* Exh. 2. She explained that there are trees located behind their property. She believes a "quiet wall" is planned next to White House Road, which is on the other side of the trees. *See* Exhs. 10(A) through (D).
5. She further testified that her neighbors support the request to build the deck.
6. Presidential Heights Homeowners Association, Inc. approved Petitioners' project. Exh. 6.

¹ Section 27-229(b)(27) of the Zoning Ordinance grants the Board the authority to grant variances for home improvements in cluster developments.

7. The Subdivision Section of the Maryland-National Capital Park and Planning Commission reviewed the request and commented that the existing and proposed structures are not within the 25-foot platted building restriction line (BRL) and no minor final plat to remove the BRL is required. It was further stated that the proposed development does not alter the land uses described in Preliminary Plan of Subdivision 4-89180 for this cluster development. It was also noted that the underlying Detailed Site Plan DSP-92041 will have no impact on review of the request. 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 variances comply with the applicable standards set forth in Section 27-230, more specifically:

Due to the unusual shape of the property, the property being located in an approved cluster subdivision, a deck being considered a "home improvement" consistent with the definition contained in the Zoning Ordinance, no other suitable location existing to construct the deck, the property backing up to wooded area and White House Road, 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 variances of 15 feet rear yard depth/width and 1.4% net lot coverage in order to validate an existing condition and construct a 16' x 19'16' x 19' deck on the property located at Lot 9, Block B, Presidential Heights Subdivision, being 10103 Texas Terrace, Upper Marlboro, Prince George's County, Maryland, be and are 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.