

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-101-15 Raymond and Faye Hamilton

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 7, 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

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

Petitioners: Raymond and Faye Hamilton

Appeal No.: V-101-15

Subject Property: Lot 1, Block J, Indian Queen East Subdivision, being 9602 Windermere Turn, Fort Washington, Prince George's County, Maryland

Heard: October 14, 2015; November 18, 2015

Decided: December 2, 2015

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Albert C. Scott, Vice Chairman

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 side yard at least 8 feet in width and a rear yard at least 20 feet in depth/width. Petitioners propose to construct an above-ground swimming pool with deck, connecting to an existing deck. Variances of 7.5 feet side yard width and 19 feet rear yard depth/width are requested.

Evidence Presented

1. The property was subdivided in 1967, contains 12,724 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 4, 8 and 9. The existing dwelling was built in 1971. Exhs. 8 and 9.

2. The property is an odd-shaped corner lot with the dwelling facing the legal side street. Exh. 2. The yard behind the house is very shallow. Exh. 2.

3. Petitioners would like to construct an 18' x 34' oval above-ground swimming pool with a surrounding deck behind the house (Exhs. 2 and 6), but variances are needed to obtain a building permit. The proposed deck would extend from the side of the house around the pool and steps would connect it to an existing deck. Main building setback requirements need to be met since the proposed deck is attached to the house via the existing deck. Since the proposed deck would be located .5 foot from the side lot line and 1 foot from the rear lot line, variances of 7.5 feet side yard width and 19 feet rear yard depth/width were requested.

4. The neighbors on an adjoining property (Lot 13) have an in-ground swimming pool. Exhs. 10(A), (C) through (E). He explained that their yard slopes upward where one side of the pool will be located and dirt will have to be removed. Exh. 5(C).

5. Petitioner Raymond Hamilton pointed out that because their house faces what is (legally) considered the side street, his back yard is really his side yard. He stated that their back yard is small so they are requesting to construct an oval, rather than round, pool with a deck around it. Exhs 2 and 6.

6. He explained that when the deck is included, the proposed structure is 29' x 33'. He stated that the pool will be 52 inches deep and the deck floor will be level with the water line. He further explained that there will be a gate between the existing deck and the pool deck and that the whole yard is already fenced in. See Exhs. 5(A) through (F).

- 7. Mr. Hamilton further testified that there are other in-ground pools in the neighborhood.
- 8. Julian and Maria Almonte, owners of adjoining property, opposed the request. Exh. 16.

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 a corner lot, the house facing the legal side street, the shallowness of the yard behind the house, the sloping topography of the land between the proposed pool and a neighbor's house, the deck around the pool needing to meet main structure setbacks because it is connected to the deck on 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 owners of the property.

BE IT THEREFORE RESOLVED, by majority vote, Board Member Anastasia Johnson abstaining, that variances of 7.5 feet side yard width and 19 feet rear yard depth/width in order to construct an 18' x 34' oval above-ground swimming pool and deck, connecting to an existing deck, on the property located at Lot 1, Block J, Indian Queen East Subdivision, being 9602 Windermere Turn, Fort Washington, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances 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.