

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-90-14 Connie Swanson

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: January 7, 2015.

CERTIFICATE OF SERVICE

This is to certify that on January 14, 2015, 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
Belmont Crest Homeowners Association, Inc.

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

Petitioner: Connie Swanson

Appeal No.: V-90-14

Subject Property: Lot 55, Block A, Belmont Crest Subdivision, being 5902 Kaveh Court, Upper Marlboro,
Prince George's County, Maryland

Heard: December 3, 2014; Decided: January 7, 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 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 construct a deck. A variance of 6 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 2005, contains 10,701 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 3, 5, 8 and 9. The existing dwelling was built in 2014. Exhs. 8 and 9.
2. The property is located within an approved cluster subdivision. Exh. 5.
3. The rear yard is shallow and the property widens from front to rear. A bump-out on the rear of the existing dwelling extends to within 20 feet of the rear property line at the closest point. Exh. 3.
4. The rear yard slopes downward behind the house. Exhs. 6(A) and (C).
5. Petitioner would like to construct a 14' x 22' deck on the rear of the dwelling (Exh. 3), but a variance is needed to obtain a building permit. Since the deck would be located 14 feet from the rear lot line at the closest point, a variance of 6 feet rear yard depth/width was requested. Exh. 12.
6. There is an unusable door which would be used to access the deck. Exh. 6(A).
7. Petitioner testified that she moved in during May 2014 and the development is fairly new. She stated that the rear yard is very sloped and a deck would provide her with a place to barbecue and have an outdoor table. She explained that there is wooded conservation area behind and a stormwater pond to the side of the house. She further explained that her existing sunroom extends to the rear restriction line and the size of a deck would be so limited without a variance that it would almost be unusable. She stated that the homeowners association does not allow decks on the side.
8. Belmont Crest Homeowners Association, Inc. approved the request. Exh. 20.
9. The Subdivision Section of The Maryland-National Capital Park and Planning Commission reviewed the request and commented that Section 27-229(b)(27) grants the Board the authority to grant variances for home improvements in cluster developments, that the proposed development does not alter the

land uses described in the preliminary plan of subdivision, and that no other plans of development are applicable and/or have no impact on the review of this request. Exh. 17.

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 shallowness of the rear yard, the rear of the existing dwelling extending to the required 20-foot rear setback, the slope of the rear yard, the homeowners association not allowing a deck on the side of the house, construction of the deck providing an additional safety exit from 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 6 feet rear yard depth/width in order to construct a 14' x 22' deck on the property located at Lot 55, Block A, Belmont Crest Subdivision, being 5902 Kaveh Court, 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 3, and the approved elevation plans, Exhibits 4(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.