

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-69-14 Nathaniel Cross

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: October 8, 2014.

**CERTIFICATE OF SERVICE**

This is to certify that on October 22, 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  
Rose Creek Estates Homeowners Association

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

Petitioner: Nathaniel Cross

Appeal No.: V-69-14

Subject Property: Lot 42, Block A, Rose Creek Estates Subdivision, being 7205 Palmetto Sunrise Court,  
Brandywine, Prince George's County, Maryland

Witness: Nicholas Capuano, Ameribuilt, LLC

Heard and Decided: October 8, 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 construct a deck. A variance of 7.5 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 2004, contains 11,323 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 4, 8 and 9. The existing single-family dwelling was built in 2006. Exhs. 8 and 9.
2. The property is located within an approved cluster subdivision. Exh. 4.
3. The property is located at the lip of a cul-de-sac and has an irregular front street line. Exhs. 2 and 4.
4. The rear yard is shallower on the right side of the property than the left side due to the position of the house on the lot. A portion of the front yard and left side yard contain storm drain easement area and there is a sewer right-of-way in most of the rear yard. Exhs. 2 and 4. In addition, required floodplain setback area extends into the rear yard. Exh. 4.
4. Petitioner would like to construct a 24' x 27' L-shaped deck to the rear of the existing dwelling, but a variance is needed to obtain a building permit. Since the deck would be located only 12.5 feet from the rear lot line, a variance of 7.5 feet rear yard depth/width was requested. Exh. 12.
5. Petitioner testified that there is an existing door in his sunroom that would access the proposed L-shaped deck and that door is currently unable to be used because stairs are needed to reach the ground. Exhs. 5(A) and (B).
6. Nicholas Capuano, representing Petitioner's contractor, testified that the deck will give Petitioner the ability to use the existing door as an additional exit. He explained that Petitioner's yard is graded with a slope towards the woods in the rear.
7. Rose Creek Estates Homeowners Association approved the request. Exh. 6.

8. The Subdivision Section of The Maryland-National Capital Park and Planning Commission (M-NCPPC) reviewed the request and noted that the bearing and distance along the northwest property line on the site location drawing (Exh. 2) is slightly inconsistent with the record plat (Exh. 4) and must match the record plat or permits may be placed on hold. It was stated that Washington Suburban Sanitary Commission (WSSC) right-of-way exists along the rear of the property and authorization for construction within the right-of-way should be obtained from WSSC. It was further stated that a floodplain setback also exists along the rear of the subject property as shown on the record plat, the proposed deck appears to encroach into the required floodplain setback, and if the Board granted the requested variance, Petitioner should be required to submit a minor final plat of subdivision (pursuant to Section 24-108 of the Subdivision Regulations) to have the existing floodplain setback removed prior to building permit. M-NCPPC stated that a minor final plat must be prepared by an appropriate professional and submitted to the Subdivision Section of M-NCPPC. 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 property being located on the lip of a cul-de-sac and having an irregular front street line, a portion of the front yard and left side yard containing storm drain easement area, the location of the existing house on the lot causing one side of the rear yard to be shallower than the other side, construction of the proposed deck providing an additional safety exit from the house, 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 7.5 feet rear yard depth/width in order to construct a 24' x 27' L-shaped deck on the property located at Lot 42, Block A, Rose Creek Estates Subdivision, being 7205 Palmetto Sunrise Court, Brandywine, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved revised site plan, Exhibit 20, and the approved elevation plan, Exhibit 3. Prior to the issuance of a building permit, Petitioner shall be required to obtain authorization from the Washington Suburban Sanitary Commission (WSSC) for construction within the WSSC right-of-way existing along the rear of the property, and Petitioner shall also be required to submit and obtain approval of a minor final plat (pursuant to Section 24-108 of the Subdivision Regulations) to have the existing floodplain setback removed. A minor final plat

must be prepared by an appropriate professional and submitted for approval to the Subdivision Section of the Maryland-National Capital Park and Planning Commission.

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.