

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-52-14 Robert & Tammy Martin

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: August 20, 2014 .

CERTIFICATE OF SERVICE

This is to certify that on August 29, 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: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Summerwood Community Homeowners Association, Inc.
Summerwood CA
Other Interested Parties

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

Petitioners: Robert & Tammy Martin

Appeal No.: V-52-14

Subject Property: Lot 45, Block A, Summerwood Subdivision, being 1005 Dowerwood Circle, Accokeek,
Prince George's County, Maryland

Witness: Nicholas Capuano, employee of Petitioner's contractor

Heard and Decided: August 20, 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, Petitioners request 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. Petitioners propose to construct a deck and steps. A variance of 13.2 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 10,582 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 2011. Exhs. 8 and 9.
2. The property is located on a cul-de-sac in an approved cluster subdivision. Exhs. 4 and 10(A) through (D).
3. The property is an odd-shaped lot, widening from front to rear and having a curved front street line. The rear yard behind the house is shallow. Exhs. 2 and 4.
4. Petitioners would like to construct a 12' x 18' deck with steps on the rear of the existing dwelling, but a variance is needed in order to obtain a building permit. Since the deck steps would be 6.8 feet from the rear lot line, a variance of 13.2 feet rear yard depth/width was requested. Exh. 12.
5. Petitioner Robert Martin testified that the house was built with a walkout basement and a set of unusable sliding doors above the basement level so when Petitioners purchased the property they assumed that a deck could be added. Exhs. 5(A) and (C). He later learned that only a small landing could be built on the rear without a variance. He stated that the deck will provide an additional safety exit.
6. Mr. Martin further testified that the land directly behind his property is owned by Petitioners' homeowners association, Summerwood Community Homeowners Association (aka "Summerwood CA") and beyond that property is conservation area. He stated that other decks have been built in the neighborhood.

7. Petitioner Tammy Martin testified that the proposed deck will be built with a composite material the color of redwood.

8. Nicholas Capuano, an employee of Petitioners' contractor, stated that the frame of the proposed deck will all be wood, but its posts will be wrapped in vinyl and the fascia and railings will be vinyl.

9. Summerwood Community Homeowners Association approved Petitioners' request for a deck and patio. Exh. 6.

10. The Subdivision Section of the Maryland-National Capital Park and Planning Commission reviewed the variance request and commented: The property is within a Cluster Development and subject to yard depth/width regulations in Section 27-442(a)(1)(e) and Section 27-229(b)(27) grants the Board of Appeals the authority to grant variances for home improvements in cluster developments.¹ The property is subject to Preliminary Plan of Subdivision 4-99038 for a cluster development, the proposed development does not alter the land uses described in the Preliminary Plan of Subdivision. Exh. 17.

11. The Applications Section of the Maryland-National Capital Park and Planning Commission reviewed the request and determined that the approved Detailed Site Plan DSP-03030 which regulates all development on the subject property had no impact on the review of Petitioners' 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 unique shape of the lot, the property being located on a cul-de-sac, the shallowness of the rear yard, there being land owned by the homeowners association and beyond that a conservation area to the rear of the property, the proposed construction constituting a permitted home improvement, the proposed deck providing an additional rear 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 owners of the property.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 13.2 feet rear yard depth/width in order to construct a 12' x 18' deck and steps on the property located at Lot 45, Block A, Summerwood Subdivision, being 1005 Dowerwood Circle, Accokeek, Prince George's County, Maryland, be and is hereby

¹ Section 27-107.01(117.1) defines "home improvements" as modifications customarily made to dwellings for the purposes of enlargement, alteration, or the addition of a fireplace, porch, deck, carport, patio, shed, driveway, or swimming pool.

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) through (c).

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.