

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-46-13 Nina Smith

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: July 10, 2013 .

CERTIFICATE OF SERVICE

This is to certify that on August 19, 2013 , 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
Kettering Community Association
Enterprise Road Development Review District Commission

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

Petitioner: Nina Smith

Appeal No.: V-46-13

Subject Property: Lot 41, Block 47, Kettering Subdivision, being 312 Ridgely Street, Upper Marlboro,
Prince George's County, Maryland

Heard and Decided: July 10, 2013

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 validate and obtain a building permit for an existing one-story addition. A variance of 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 1970, contains 8,513 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 1978. Exhs. 8 and 9.
2. The property is an odd-shaped lot, with the lot being wider than it is deep. The rear yard is shallow; the rear property line is angled and the left side of the rear yard is shallower than the right side. The house faces the street at an angle. Exh. 2.
3. Petitioner would like to validate and obtain a building permit for an existing 10' x 19.5' one-story addition on the rear of the existing dwelling, but a variance is needed to obtain the permit. Since the addition is located 15 feet from the rear lot line, a variance of 5 feet rear yard depth/width was requested. Exh. 12.
4. The Board approved a variance for rear yard setback in 1999 (Appeal No. V-92-99) for construction of the addition. Exh. 6.
5. Petitioner testified that she previously obtained a variance (in 1999) and building permit and completed the construction but did not receive a final inspection of the work. She stated that the 1999 variance had expired and the building permit was considered "abandoned" by the County. Exh. 7.
6. Petitioner further testified that she built the addition because she had an open back porch and wanted an all-year-round room. She stated that it is not unusual to have an addition in her neighborhood.

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 unusual shape of the property, the lot being wider than it is deep, the shallowness of the rear yard, Petitioner having obtained a rear yard setback variance and building permit for construction of the addition in 1999, construction having been completed, the resulting building permit having been abandoned because no final inspection was conducted, the 1999 variance having expired, 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 5 feet rear yard depth/width in order to validate and obtain a building permit for an existing 10' x 19.5' one-story addition on the property located at Lot 41, Block 47, Kettering Subdivision, being 312 Ridgely Street, 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 2, and the approved elevation plans, Exhibits 3(a), (b) and (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.