

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-34-17 Alvin and Avis Turner

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: May 24, 2017 .

CERTIFICATE OF SERVICE

This is to certify that on June 19, 2017 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)

Barbara J. Stone
Acting 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: Alvin and Avis Turner

Appeal No.: V-34-17

Subject Property: Tax Map 138, Grid C3, Parcel 85, being 15907 Nottingham Road, Upper Marlboro,
Prince George's County, Maryland

Witness: Alvin Andrew Turner Jr. (Son)
Jeffrey Croisetiére (Solar Tech Inc.)

Heard and Decided: May 24, 2017

Board Members Present and Voting: 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 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 a variance from Section 27-442(c)(Table II), which prescribes that not more than 5% of the net lot area shall be covered by buildings and off-street parking and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall generally be located only in the rear yard. Petitioners propose to validate existing conditions and construct a solar array. A variance of 2.6% net lot coverage and waivers of the rear yard location requirement for accessory buildings are requested.

Evidence Presented

The following testimony and record evidence were considered by the Board:

1. The property contains 228,507.04 square feet (5.2458 acres), is zoned O-S (Open Space) and is improved with a single-family dwelling, driveway, swimming pool, two sheds and a chicken house. Exhibits (Exhs.) 2, 5, 6, 10 and 11.

2. The property was created by deed in 1988. Exhs. 5 and 6.

3. Petitioners would like to construct a 13' x 54'2" solar array, which would be in the rear yard. As the existing development on the property exceeds the amount of lot coverage allowed, a variance is required before a building permit can be obtained. A variance of 2.6% net lot coverage was therefore requested. Exhs. 2, 4 (A) thru (C), 12 (A) thru (F), 14 and 15.

4. The existing metal equipment shed is in the left-side yard and the existing wooden shed and metal chicken house are in the right-side yard. Exhs. 2, 4 (A) thru (C), 12 (A) thru (F) and 15. Waivers of the rear yard location requirement for these accessory buildings were requested.

5. Jeff Croisetiére, Solar Tech. Inc., testified that placing the array on the roof of the dwelling was discouraged due to the multiple trees that would be shading the solar panels and general aesthetics. He testified that the efficiency of the array would decrease as much as 40% to 50% due to the shading. He also stated that the proposed location is an ideal area for the construction as they would have no "system issues." Exhs. 2, 4 (A) thru (C), 12 (A) thru (F).

6. Petitioner Mr. Alvin Turner, Sr. stated that the benefit of the proposed ground placement would be that the topography hides the unit from the view of all neighbors and the roadway but would still provide optimum solar exposure. Exhs. 2, 4 (A) thru (C), 12 (A) thru (F).

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 complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the property being in the O-S Zone allowing only 5% net lot coverage, the lack of efficiency placing the array on the roof 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 subject property.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Bobbie Mack absent, that a variance of 2.6% net lot coverage and waivers of the rear yard location requirement for accessory buildings to validate existing conditions and construct a 13' x 54'2" solar array on the property located at Tax Map 138, Grid C3, Parcel 85, being 15907 Nottingham Road, Upper Marlboro, 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 approved elevation plans, Exhibits 3 (A) thru (B).

BOARD OF ZONING APPEALS

By: (Original Signed)
Albert C. Scott, Vice Chairman

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.