


NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-159-07 Luvern Middleton

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 16, 2008 .

CERTIFICATE OF SERVICE

This is to certify that on February 6, 2008 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Anne F. Carter
Administrator

cc: Petitioner
Adjoining Property Owners
DER, Building Code Official, Permit & Review Div.
M-NCPPC, Permit Review Section
Presidential Heights HOA, Inc.

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

Petitioner: Luvern Middleton

Appeal No.: V-159-07

Subject Property: Lot 1, Block F, Presidential Heights Subdivision, being 10513 Birdie Lane, Largo,
Prince George's County, Maryland

Witness: Terence Blount

Heard: October 17, 2007; Decided: January 16, 2008

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 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, Petitioner requests that the Board approve variances 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, and Section 27-442(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking. Petitioner proposes to construct a sunroom and deck. Variances of 11 feet rear yard depth and 2.6% net lot coverage are requested.

Evidence Presented

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

1. The property was subdivided in 1993, contains 6,217 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway.
2. The property is located within an approved cluster subdivision (Exhibit 4). The existing dwelling was constructed in 2000 (Exhibit 6). The property is odd-shaped, with the angle of the left side and rear lot lines causing the lot to widen from front to rear and deepen from left to right. The front line of the house is parallel to the front street line, but the left side of the house is closer to the rear lot line than the right side. See Exhibit 2.
3. Petitioner would like to construct a 14' x 15' deck and 12' x 15' sunroom on the back of the existing dwelling. Since the deck, proposed for the left rear corner, would be 9 feet from the rear lot line at the closest point, a variance of 11 feet rear yard depth/width was requested. In addition, construction of the sunroom would cause the allowed amount of lot coverage to be exceeded. Therefore, a variance of 2.6% net lot coverage was requested.

4. Earlier in 2007, when Petitioner applied for the variances, it was determined that original development on the property exceeded the 30% maximum permitted in the cluster subdivision. Since County Code Section 27-229(b)(27) prohibits the Board from granting variances in cluster subdivisions other than those required for home improvements, Petitioner's application was dismissed as filed in error. When Petitioner reapplied with the subject request, the submitted site plan indicates that Petitioner removed enough driveway area so that the lot coverage overage is entirely due to proposed home improvements.

5. Petitioner testified that the land slopes down behind her house, a privacy fence sits along her rear property line, there is undeveloped land with a walking trail beyond the fence and a steep downward slope on the other side of the walking trail.

6. The Presidential Heights Homeowners Association, Inc. approved Petitioner's proposal provided the steps from the deck do not extend beyond the side of the house (Exhibit 17).

7. The Subdivision Section of the Maryland-National Capital Park and Planning Commission reviewed the request with regard to the description of the property contained on the record plat of subdivision for Presidential Heights (VJ 167 @ 7 – Lot 1, Block F). The Subdivision Section stated that the proposed development and requested variance are not in conflict with the record plat or the Plan of Development as approved under Cluster Preliminary Plan 4-89180 if the proposed development meets the definition contained in Section 27-107.01(a) (117.1) of the Zoning Ordinance.

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

Due to the property being odd-shaped, the property being located within an approved cluster subdivision, Petitioner's proposed development being for home improvements only, the site plan indicating that the homeowners association's concerns about protrusions from the deck into the side yard being satisfied, the existing conditions on the property, Petitioner having removed a certain amount of driveway area, there being a privacy fence separating the rear yard from adjoining undeveloped land with a walking trail, 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 variances of 11 feet rear yard depth and 2.6% net lot coverage in order to construct a sunroom and deck on the property located at Lot 1, Block F, Presidential Heights Subdivision, being 10513 Birdie Lane, Largo, 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 the approved elevation plans, Exhibit 3.

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.