

NOTICE OF FINAL DECISION


OF BOARD OF APPEALS

RE: Case No. V-193-07 Leonila Vincent

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 8, 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

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

Petitioner: Leonila Vincent

Appeal No.: V-193-07

Subject Property: Lot 1, Block B, Wanausek Subdivision, being 8839 Oak Lane, Fort Washington,
Prince George's County, Maryland

Witnesses: Corricine Rixey, Adjoining property owner

Louis Rixey, Adjoining property owner

Heard: December 12, 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 front yard at least 25 feet in depth and a side yard at least 8 feet in width; Section 27-442(c)(Table II), which prescribes that not more than 25% 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. Petitioner proposes to validate and obtain a building permit for a new shed with attached deck and deck attached to the house. Variances of 7 feet front yard depth, 1 foot side yard width, 9.5% net lot coverage, and 4.5 feet rear lot line setback for the accessory shed with deck are requested.

Evidence Presented

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

1. The property was subdivided in 1966, contains 10,667 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway, detached garage and shed.
2. The property is an odd-shaped corner lot, with the house facing the legal side street (Exhibit 2).
3. Without first obtaining a building permit, Petitioner constructed a 12' x 22'2"/21' x 18' wrap-around deck on one rear corner of the house and a 12' x 14' shed, with 12' x 8'8" deck, in the legal rear yard. Petitioner was cited with Violation Notice BVN 38483-2007-01 by the Licenses & Inspections Division, Department of Environmental Resources, which instructed Petitioner to obtain a building permit or remove the structures (Exhibit 6). In order to obtain a permit, variances are needed to validate the structures' locations. Since the deck is located 18.5 feet from the front street line and 7 feet from the side lot line, variances of 6.5 feet front yard depth and 1 foot side yard width were requested. Since the deck

attached to the shed is located 5.5 feet from the rear lot line at the closest point, a variance of 4.5 feet rear lot line setback was requested.

4. In addition, with construction of the shed, the allowed amount of lot coverage has been exceeded. A variance of 1.2% net lot coverage was also requested to validate that existing condition.

5. Petitioner testified that she built the deck to enhance the enjoyment of her property and built the shed to provide more storage space for her family. Ms. Vincent further explained that the deck is not visible because of a privacy fence that surrounds it.

6. Ms. Vincent testified that there is very large house next to her property, one house in the neighborhood has a swimming pool and a number of nearby houses have decks and privacy fences.

7. Louis Rixie and Corricine Rixie, owners of adjoining property at 103 LaMarck Drive, expressed concern that the structures built by Ms. Vincent be constructed properly and in legal locations because they do not want the appearance of the property next door to devalue their property.

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 unusual shape of the property, the property being a corner lot, the house facing the legal side street, the angle of the house on the lot, the shallowness of the legal side yard behind the house, the location of existing structures on the lot, the need for additional storage space outside of 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 owner of the property.

BE IT THEREFORE RESOLVED, unanimously, that variances of 7 feet front yard depth, 1 foot side yard width, 9.5% net lot coverage, and 4.5 feet rear lot line setback for the accessory shed with deck in order to validate and obtain a building permit for a new shed with attached deck and deck attached to the house on the property located at Lot 1, Block B, Wanausek Subdivision, being 8839 Oak Lane, Fort Washington, 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.

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.