

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-70-10 Dennis & Tanya Ellis

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: November 17, 2010 .

**CERTIFICATE OF SERVICE**

This is to certify that on November 29, 2010 , 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  
DER, Building Code Official, Permits & Review Group  
Accokeek Development Review District Commission

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

Petitioners: Dennis & Tanya Ellis

Appeal No.: V-70-10

Subject Property: Lot 53, Livingston Grove Subdivision, being 16601 Holly Way, Accokeek,  
Prince George's County, Maryland

Witness: Nuno Alves, adjoining property owner

Heard: October 20, 2010; November 17, 2010

Decided: November 17, 2010

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 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. Petitioners propose to construct a deck and gazebo. A variance of 9 feet rear yard depth/width is requested.

Evidence Presented

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

1. The subject property was subdivided in 1991, contains 16,576 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and shed. See Exhibits ("Exhs.") 4, 8-9, 19. The property was improved with a single-family dwelling in 1997. See Exh. 8.
2. The property is an odd-shaped lot located on a cul-de-sac. The rear yard is extremely shallow. See Exhs. 4, 10(A), 19. There is a line of trees to the immediate rear of the property. See Exhs. 6(A), 10(A)-(F).
3. Petitioners would like to construct a 16' x 21' deck, with an attached 10' x 10' octagonal gazebo, on the rear of the existing dwelling (see Exh. 19), but a variance is needed to obtain a building permit. Since the deck and gazebo would be located 11 feet from the rear lot line, a variance of 9 feet rear yard depth/width was requested. See Exh. 21.
4. Petitioner Tanya Ellis testified that there is space between their house and the houses to either side, but the rear yard is very shallow. She explained that building the deck on either side of the house, rather than the proposed location, which is off the kitchen, would require almost total reconstruction of the side of the house.
5. Nuno Alves, owner of the adjoining property to the rear, opposed the request. See Exh. 17.
6. The Environmental Planning Division of the Maryland-National Capital Park and Planning Commission stated that the proposed development as shown on the site plan is consistent with the approved Type II Tree Conservation Plan, TCP-II/203/90. See Exh. 5.

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 property being located on a cul-de-sac, the exceptional shallowness of the rear yard, a line of trees existing along the rear property line, a door already existing on the rear of the house where the deck is proposed, 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, by majority vote, Ms. Mack absent, that a variance of 9 feet rear yard depth/width in order to construct a 16' x 21' deck, with an attached 10' x 10' octagonal gazebo, on the property located at Lot 53, Livingston Grove Subdivision, being 16601 Holly Way, Accokeek, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in conformance with the approved revised site plan, Exhibit 19, and the approved revised elevation plans, Exhibits 20(A)&(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.