

*NOTICE OF FINAL DECISION*


*OF BOARD OF APPEALS*

RE: Case No. V-202-07 Marjorie McAbee

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: April 2, 2008.

**CERTIFICATE OF SERVICE**

This is to certify that on May 7, 2008, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

  
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Anne F. Carter  
Administrator

cc: Petitioner  
Adjoining Property Owners  
DER, Building Code Official, Permit & Review Div.  
DER, Licenses & Inspections Div.  
M-NCPPC, Permit Review Section  
Accokeek Development Review District Commission

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

Petitioner: Marjorie McAbee

Appeal No.: V-202-07

Subject Property: Part of Lot 33, South Piscataway Subdivision, being 14716 Livingston Road,  
Accokeek, Prince George's County, Maryland

Witnesses: Robert Janney, Petitioner's brother and adjoining property owner  
Anne Stephen, Adjoining property owner

Heard: January 16, 2008; February 27, 2008

Decided: April 2, 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(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from the front street line and generally be located only in the rear yard. Petitioner proposes to validate and obtain a building permit for an existing detached carport and two sheds. A variance of 15 feet front street line setback and a waiver of the rear yard location requirement for a detached carport, a variance of 10 feet front street line setback and a waiver of the rear yard location requirement for one shed, and a waiver of the rear yard location requirement for a second shed are requested.

Evidence Presented

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

1. The property contains 14,457 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway, detached carport, three accessory sheds and a metal canopy. The property is located in the Accokeek Development Review District.
2. The subject property (Part of Lot 33) is located within a subdivision recorded in 1948 (Exhibit 3), but the property in its current configuration was created by deed in 1966 (Exhibit 4). The property is odd-shaped and narrows substantially from a point approximately 54 feet back on the property to the rear property line.
3. Petitioner was cited with Violation Notice No. BVN 41278-2007-01 by the Licenses and Inspection Division, Department of Environmental Resources, requiring Petitioner to obtain a building

permit for detached carports, sheds and an addition on the left side of the house or remove the structures (Exhibit 7).

4. Variances are necessary before Petitioner be would be able to obtain a building permit. The site plan submitted with Petitioner's variance application (Exhibit 2) underwent several revisions (Exhibits 23, 30, 32 & 34). Variances for net lot coverage and validation of four accessory structures (including a covered/enclosed patio on the side of the house) were reduced to validation of only three of the structures for the following reasons. Since the 20' x 20' detached carport (metal canopy over driveway area) is located 45 feet from the front street line and is in front of the house, a variance of 15 feet front street line setback and a waiver of the rear yard location requirement were requested. Since a 6' x 10' shed is located 43 feet from the front street line in the front yard, a variance of 17 feet front street line setback and a waiver of the rear yard location requirement were requested. Since an 8' x 20' shed is located in the front yard, a waiver of the rear yard location requirement was requested (Exhibit 34).<sup>1</sup>

5. Robert Janney testified that the enclosed metal canopy on the left side of the house has existed since 1992, and that all of the other structures on the subject property have existed for 16-35 years. He explained that he would remove the sides of the enclosed metal canopy on the left side of the house and enough of the canopy roof to meet the 8 foot side yard setback requirement, leaving a covered patio, and move the carport so that it is 10 feet from the side property line (Exhibit 34).

6. Robert Janney further testified that the two sheds for which validation is requested have existed for 16 years. He also testified that there are at least 22-27 other carports located in front yards in the neighborhood and believes Petitioner's carport is not out of character with the neighborhood. He testified that because the subject property is odd-shaped and narrow at the rear, Petitioner cannot relocate the carport to the rear yard.

7. Anne Stephen testified that she opposes the validation of the sheds in the front yard and opposes the enclosed/covered patio on the side of the house.

8. The Accokeek Development Review District Commission made no comment on the request.

#### 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 created by deed in 1966, the unusual shape of the property, the narrowness of the rear portion of the property, the two sheds in the front yard existing in their current locations for 13-16 years, there being many carports in other front yards in the neighborhood, granting the relief requested would not substantially impair the intent, purpose and integrity of the General Plan or

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<sup>1</sup> There is also a 10' x 14' shed, under a 17' x 31' metal canopy, located in the rear yard (Exhibit 34).

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 15 feet front street line setback and a waiver of the rear yard location requirement for an existing 20' x 20' detached carport, a variance of 10 feet front street line setback and a waiver of the rear yard location requirement for an existing 6' x 10' shed, and a waiver of the rear yard location requirement for an existing 8' x 20' shed on the property located at Part of Lot 33, South Piscataway Subdivision, being 14716 Livingston Road, Accokeek, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan (#4), Exhibit 34.

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.