

*NOTICE OF FINAL DECISION*


*OF BOARD OF APPEALS*

RE: Case No. V-23-08 Michelle Battle

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 April 22, 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: Michelle Battle

Appeal No.: V-23-08

Subject Property: Parcel 27, Tax Map 156, Grid D-3, being 15515 Brandywine Road,  
Brandywine, Prince George's County, Maryland

Witnesses: Harvey Battle, Adjoining property owner  
Steve Hardesty, Petitioner's contractor

Heard and 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 a variance 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 a variance from Section 27-442(b)(Table I) of the Zoning Ordinance, which prescribes that each lot shall have a minimum net lot area of 5 acres. Petitioner proposes to construct a new single-family dwelling and driveway. A variance of 2.905 acres net lot area is requested.

Evidence Presented

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

1. The property contains 2.3382 acres (101,851.99 sq. ft.) gross lot area. Since a 30-foot-wide right-of-way along one side of the property, a private street, contains 10,643 square feet, the total net lot area of the property is 2.095 acres (91,209 sq. ft.) (Exhibit 2). The property is zoned O-S (Open Space) and is vacant land proposed to be improved with a single-family dwelling and driveway.
2. The parcel from which the subject property was created was recorded prior to classification in the O-S Zone (Exhibit 8). Petitioner's family obtained that parcel in 1949 (Exhibit 4). Petitioner obtained the subject property in 2006 through a family conveyance (Exhibit 6).
3. The property is an odd-shaped lot, with only two corners being close to right angles. Approximately half of the area of the property is designated Tree Save Area. See Exhibit 2.
4. Access to the public street is provided by way of a 30-foot private right-of-way.
5. Steve Hardesty, Petitioner's contractor, testified that the property has been in Petitioner's family for over 50 years. He explained that when Petitioner proposed to develop the property with a single-family dwelling, she received a "buildable lot letter" from the Maryland-National Capital Park and Planning Commission ("M-NCPPC") (Exhibit 8), proceeded most of the way through the permitting process, but was then informed by a permit reviewer that she must obtain a variance before a building permit could be issued.

6. The Subdivision Section of M-NCPPC reviewed the request with regard to the description of the property known as Parcel 27 on Tax Map 156, Grid D-3. The Subdivision Section stated that the subject property is exempt from the requirement to subdivide pursuant to Section 24-107(c)(7)(A) of the Subdivision Regulations (Exhibit 14).

#### 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, access to the public street from the property being provided by a 30-foot private right-of-way which reduces the gross lot area of the property by 10,643 square feet, approximately half of the area of the property being designated Tree Save Area, the parcel from which the property was created being recorded prior to classification in the O-S Zone, Petitioner's family obtaining that parcel in 1949, Petitioner obtaining the property in 2006 through a family conveyance, Petitioner receiving a "buildable lot letter" from M-NCPPC, the property being exempt from the requirement to subdivide pursuant to Section 24-107(c)(7)(A) of the Subdivision Regulations, 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, unanimously, that a variance of 2.905 acres from the minimum net lot area requirement in order to construct a new single-family dwelling and driveway on the property located at Parcel 27, Tax Map 156, Grid D-3, being 15515 Brandywine Road, Brandywine, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2, and the approved elevation plan, 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.