

NOTICE OF FINAL DECISION

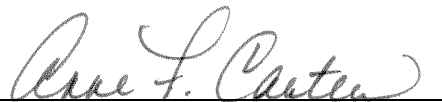
OF BOARD OF APPEALS

RE: Case No. V-44-08 Tracey Woodard

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: May 21, 2008.

CERTIFICATE OF SERVICE

This is to certify that on June 2, 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
Municipality

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

Petitioner: Tracey Woodard

Appeal No.: V-44-08

Subject Property: Lots 7, 8 & 9, Glenarden Heights Subdivision, being 3405 Brightseat Road, Landover,
Prince George's County, Maryland

Municipality: City of Glenarden

Counsel for Petitioner: Lawrence N. Taub, Esq., O'Malley, Miles, Nysten & Gilmore

Heard and Decided: May 21, 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(c)(Table II) of the Zoning Ordinance, 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 new single-family dwelling and driveway. A variance of 5.54% net lot coverage is requested.

Evidence Presented

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

1. The property was subdivided in 1947, contains 12,300 square feet, is zoned R-55 (One-Family Detached Residential) and is vacant land proposed to be improved with a single-family dwelling and driveway. See Exhibits 3 & 5.
2. The property is regular in its size and shape (Exhibits 3 & 10). Right-of-way dedications consisting of 1200 square feet of land have reduced the land area of the subject property. See Exhibits 6 & 7.
3. Petitioner would like to construct a one-story dwelling, with basement, and driveway. Construction of the house and driveway would cause the allowed amount of lot coverage to be exceeded by 652 square feet (Exhibit 2). A variance of 5.54% net lot coverage was requested in order to obtain a building permit for the proposed dwelling and driveway.
4. It was explained that Petitioner purchased the property with the intention of building a two-story colonial, but a survey of the lot revealed that there is a 20-foot difference in grade from the rear property line to the front of the property. It was stated that the grade difference (more than 16.5%) would make building a two-story colonial with a basement impractical and undesirable because (1) the basement and entire first floor would be completely below grade in the rear yard and there would be no windows on the

rear side; (2) a two-story colonial would grossly violate the maximum building height restriction for a single-family home in the R-55 Zone; and (3) a one-story home with a basement would be in keeping with the character of the existing homes in the community (single-family ranch style homes). It was further stated that in order to achieve the needed square footage for the proposed house within a one-story home with a basement, the proposed footprint is the minimum configuration necessary. See Exhibit 2.

5. Counsel for Petitioner stated that Petitioner has discussed his project with both of his neighbors and they have indicated no objection to the variance. Counsel argued that in light of the topography of property, the topographic nature of the property itself causing the hardship of being unable to achieve the needed house size while meeting the regulations and the proposal being consistent with the neighborhood, approval of a variance is justified.

6. City of Glenarden's City Manager stated that he could not speak for the City Council in terms of what position the Council would take on the request (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 sloping topography of the lot, the 16.5% grade difference making the construction of a two-story colonial with a basement impractical and undesirable, the topographic nature of the property itself causing the hardship of being unable to achieve the needed house size while meeting the 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 owner of the property.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 5.54% net lot coverage in order to construct a new single-family dwelling and driveway on the property located at Lots 7, 8 & 9, Glenarden Heights Subdivision, being 3405 Brightseat Road, Landover, 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 3, and the approved elevation plan, Exhibit 4.

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.