

NOTICE OF FINAL DECISION


OF BOARD OF APPEALS

RE: Case No. V-7-08 Patricia Toles

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: February 13, 2008 .

CERTIFICATE OF SERVICE

This is to certify that on March 6, 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: Patricia Toles

Appeal No.: V-7-08

Subject Property: Part of Lots 1 & 2, North East Marlboro Subdivision, being 4601 Largo Road, Upper Marlboro, Prince George's County, Maryland

Witness: Robert Lathan, on behalf of Petitioner

Heard and Decided: February 13, 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 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 Section 27-120.01(c), which prescribes that no parking space, parking area, or parking structure other than a driveway no wider than its associated garage, carport, or other parking structure may be built in the front yard of a dwelling in the area between the front street line and the sides of the dwelling. Petitioner proposes to construct a two-story single-family dwelling and driveway. A variance of 11 feet front yard depth and a waiver of the parking area requirement are requested.

Evidence Presented

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

1. The property was subdivided in 1941 (1948 addenda noted), contains 5.3182 acres (231,661 square feet) is zoned R-R (Rural Residential) and is a vacant lot proposed to be improved with a single-family dwelling and driveway. The property is a long and narrow lot with a downhill slope towards the front of the property (Exhibit 2).
2. The property is made up of two zoning lots (Lots 1 & 2), except for a portion of the front of both lots that was conveyed to the State Highway Administration in 1974 (Exhibit 8). A 20-foot sewer main right-of-way traverses the entire length of Lot 1 and a 30-foot-wide creek crosses the rear of both lots (Exhibit 2).
3. Petitioner would like to construct a 63' x 66' two-story house and driveway on the property. Since the house would be located 14 feet from the front street line and a large portion of the driveway would be located in an area prohibited by Section 27-120.01(c), a variance of 11 feet front yard depth and a waiver of the parking area requirement were requested.

4. The Board approved a variance in 2007 (Appeal No. V-133-07) for construction of an addition to the house existing on the property at that time. Robert Lathan testified that during the permit process for the addition, he was informed by a County employee that the property needed to be razed and a raze permit should be obtained. He explained that after the house was razed, he had applied for a new construction permit to construct a new dwelling, and steps were taken to get the water and septic "capped off", the Department of Environmental Resources informed him that he did not need to raze the original house and that the previously-approved variance was obviated since it was obtained to construct an addition rather than a new dwelling.

5. The State Highway Administration issued Permit 3PG-650-07, with special provisions, to Petitioner to install a 20-foot-wide residential driveway conforming to approved plans (Exhibits 14(a) & (b)).

6. Mr. Lathan further testified that the downhill slope so close to the front of the property limits the area where the proposed house can be built, causing the need for the variances. He stated that the proposed new house is the same size and footprint as the previously-razed house with the previously-approved addition.

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 subdivided in 1941, the narrowness of the property, the sloping topography towards the front of the property, a portion of the front of the property being conveyed to the State Highway Administration in 1974, a sewer main right-of-way extending across the entire length of Lot 1, the extremely small developable area at the front of the property being located on Lot 2, the previous variance becoming invalid because the original house was razed, the proposed house being the same size and having the same footprint as the previous house and previously-proposed addition, 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 11 feet front yard depth and a waiver of the parking area requirement in order to construct a new two-story single-family dwelling and driveway on the property located at Part of Lots 1 & 2, North East Marlboro Subdivision, being 4601 Largo Road, Upper Marlboro, 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, 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.