

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-7-11 Robert & Carolyn Kerr

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: March 23, 2011.

CERTIFICATE OF SERVICE

This is to certify that on April 6, 2011, 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

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

Petitioners: Robert & Carolyn Kerr

Appeal No.: V-7-11

Subject Property: Lot 5, Block 1, Hidden Hills Subdivision, being 2109 Hideout Lane, Mitchellville,
Prince George's County, Maryland

Heard and Decided: March 23, 2011

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, Petitioners request that the Board approve a variance from Section 27-442(i)(Table VIII) of the Zoning Ordinance, which prescribes that accessory buildings shall generally be located only in the rear yard. Petitioners propose to construct a detached pole barn/garage and driveway extension. A waiver of the rear yard location requirement for an accessory building is requested.

Evidence Presented

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

1. The property was subdivided in 1984, contains 218,101 square feet (5.006 acres), is zoned R-A (Residential-Agricultural) and is improved with a single-family dwelling, driveway and shed. See Exhibits ("Exhs.") 6, 9-10, 18. The property was improved with a single-family dwelling in 1995. See Exh. 9.
2. The property is located in a rural area and is surrounded with other large wooded lots. See Exhs. 11(A)-(E).
3. Petitioners would like to construct a detached 30' x 30' pole barn/garage, which would be partially located in the side yard, and 20' x 36' driveway extension to access the proposed structure. See Exh. 18. Since the structure would not be located entirely in the legal rear yard, a waiver of the rear yard location requirement for an accessory building was requested. See Exh. 13.
4. Petitioners explained that the property is heavily wooded and that since there are steep hills behind the house, extensive grading and removal of several trees in the rear would be necessary in order to make an area suitable there for building. Petitioners stated that the proposed location for the pole barn/garage shown on the site plan, to the side of the house, is the only level area that is clear of all trees and obstructions on which to build a structure. See Exhs. 2, 7(A)-(D).
5. Petitioner Robert Kerr testified that the proposed structure is needed for storage of equipment used for property maintenance, including a tractor and Bobcat. He added that in addition to other obstacles, the locations of the septic tank and the septic drain field in the rear preclude construction behind the house. See Exh. 18.

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 property being located in a rural area, the property being surrounded by other large wooded lots, the severely sloping topography in front and behind the existing house, extensive grading and removal of several trees being needed to comply with the rear yard location requirement, the locations of the septic tank and the septic drain field in the rear yard, the proposed location for the detached pole barn/garage being the only suitable area on which to build the proposed structure, the need for protected storage area for property maintenance equipment, 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 waiver of the rear yard location requirement for an accessory building in order to construct a detached 30' x 30' pole barn/garage and 20' x 36' driveway extension on the property located at Lot 5, Block 1, Hidden Hills Subdivision, being 2109 Hideout Lane, Mitchellville, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved revised site plan, Exhibit 18, and the approved elevation plans, Exhibits 4(a)-(f).

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.