



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

WAYNE K. CURRY COUNTY ADMINISTRATION BUILDING, LARGO, MARYLAND 20774  
TELEPHONE (301) 952-3220

## ***NOTICE OF FINAL DECISION***

### ***OF BOARD OF APPEALS***

RE: Case No. V-81-24 Shelby Holdings II, LLC

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: December 4, 2024.

### ***CERTIFICATE OF SERVICE***

This is to certify that on June 3, 2025, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

*Ellis Watson*

Ellis Watson  
Administrator

cc: Petitioner  
Adjoining Property Owners  
M-NCPPC, Permit Review Section  
DPIE/Building Code Official, Permitting  
Traci R. Scudder, Esq., Rees Broome, PC

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

Petitioner: Shelby Holdings II, LLC

Appeal No.: V-81-24

Subject Property: Lots 27 & 28, Block 76, Greater Capitol Heights Subdivision, being 1304 Opus Avenue, Capitol Heights, Prince George's County, Maryland

Counsel for Petitioner: Traci R. Scudder, Esq., Scudder Legal

Heard: December 4, 2024 and Decided: December 4, 2024

Board Members Present and Voting: Omar Boulware, Chair

Phillippa Johnston, Vice Chair

Dwayne A. Stanton, Board 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 27-230 of the Zoning Ordinance, Petitioners request that the Board approve a variance from Section 27-442(b)(Table I) that prescribes that each lot shall have a minimum net lot area of 5,000 square feet. A variance of 1,000 square feet net lot area is requested.

**Evidence Presented**

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

1. The property was subdivided in 1909, before the adoption of the *Prince George's County Zoning Ordinance and Subdivision Regulations*, contains 4,000 square feet, is zoned R-55 (One-Family Detached Residential), and are vacant lots. Further, this case is being reviewed under the prior zoning ordinance. Exhs. 2, 3, 5, 8, 9 and 14.

3. The Petitioner proposes to obtain a building permit to construct a three-story family dwelling. A variance of 1,000 square feet net lot area is requested. Exhs. 2, 3, 4 (A) thru (B), and 14.

4. The Attorney for the limited liability company (LLC), Ms. Scudder, presented the case to the Board. Ms. Scudder stated that the Petitioner desired to build a three-story house and one-car garage on the subject lots. Exhs. 2, 3, 4(A) thru (B), and 14.

5. Ms. Scudder stated that the lots (27 & 28) are in an older community that was subdivided in 1909. Further, Ms. Scudder informed the Board that the creation of the lots predated the Prince George's County Subdivision Regulations, and it was not feasible for the Petitioner to meet the zoning requirements that each lot shall have a minimum net lot area of 5,000 square feet. Exhs. 2, 5, 8, and 9.

6. Additionally, Ms. Scudder stated that the subject lots were surrounded by three (3) streets and made expansion impossible on the subject lots.

7. Also, Ms. Scudder explained to the Board that a portion of the subject lots was used to construct the Capitol Heights Boulevard, making the subject lots shorter and narrower than the surrounding lots. Further, Ms. Scudder mentioned that the unique lot shapes and sizes found in the neighborhood squeeze the subject lots into smaller, shorter, and narrower footprints. Exhs. 2, 6 (A) thru (C), 8, 9, 10, 11, 12 (A) thru (F), and 13 (A) thru (D).

8. Ms. Scudder stated that the property is specifically zoned for single-family detached houses, and the proposed construction falls in line with goals of the County's masterplans.

9. Ms. Scudder mentioned that the proposed construction will not substantially impair the use and enjoyment of the surrounding properties, and pointed out that the Board recognized the uniqueness of the lot when it approved a previous application for a property located on a neighboring block. Chair Boulware asked Ms. Scudder if the currently constituted Board approved that decision or a prior Board. Ms. Scudder did not have the information readily available; however, she indicated the subject application received a final decision on June 20, 2024.

10. Vice Chair Johnston stated to Ms. Scudder that the Board follows the law regarding the "uniqueness" criteria of granting a variance request; specifically, the lot must be physically unique in comparison to the surrounding lots. Further, Vice Chair Johnston acknowledged that some lots close to the subject lot were oriented in different directions but determined that the lots in the immediate vicinity of the subject lot were similar and not unique. Exhs. 2 and 5.

11. Ms. Scudder explained that the lots on Block 76 are unique because they are shorter in comparison to lots on the surrounding blocks because property from Block 76 was taken to create Capitol Heights Boulevard. Exhs. 2 and 5.

12. Chair Boulware mentioned that when he determines the "uniqueness" of a subject lot, he looks at the lots to the immediate left or right of the lot in question.

13. Board Member Stanton asked Administrator Watson to explain the definition of "surrounding" as it pertains to the uniqueness criteria for granting a variance. Mr. Watson replied that Maryland case law<sup>1</sup> has determined that surrounding or adjacent properties do not have to be next to one another. The standard is that you have unimpeded views of the lots being analyzed for the uniqueness standard.

14. Board Member Stanton made the Motion to Approve V-81-24. The Motion was seconded by Vice Chair Johnston. Motion carried by a 3-0 vote.

#### Applicable Code Sections and Authority

The Board is authorized to grant the requested variances if it finds that the following provisions of Section 27-230 of the Prince George's County Zoning Ordinance are satisfied:

A variance may only be granted when the review board or official, as appropriate, finds that:

- (1) A specific parcel of land is physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness, shallowness, shape, exceptional topographic conditions, or other extraordinary conditions peculiar to the specific parcel (such as historical significance or environmentally sensitive features);
- (2) The particular uniqueness and peculiarity of the specific property causes a zoning provision to impact disproportionately upon that property, such that strict application of the provision will result in peculiar and unusual practical difficulties to the owner of the property.
- (3) Such variance is the minimum reasonably necessary to overcome the exceptional physical conditions.

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<sup>1</sup> In *Dan's Mt. Wind Force, LLC v. Allegany Cty. Bd. of Zoning Appeals*, the Court did not define what "neighboring" and "surrounding" meant regarding to the uniqueness aspect of a particular property; however, in *Heard v. Cnty. Council*, the Court determined there is "no bright-line rule for exactly how close a property must be in order to show special aggrievement...protestant must demonstrate that they live no more than 1,000 feet from the subject property.

- (4) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the General Plan or any Functional Master Plan, Area Master Plan, or Sector Plan affecting the subject property.
- (5) Such variance will not substantially impair the use and enjoyment of adjacent properties; and
- (6) A variance may not be granted if the practical difficulty is self-inflicted by the owner of the property.

#### 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 subject property being subdivided in 1909 before the adoption of the *Prince George's County Zoning Ordinance and Subdivision Regulations*, the subject property is physically unique and unusual in a manner different from the nature of surrounding properties due to portions of the Petitioner's lots being subjected to an Eminent domain proceeding making the subject lots shorter and narrower than surrounding neighbors' lots. The particular uniqueness and peculiarity of the specific property, if applied, would limit the development of the subject vacant lots. Additionally, the Board concluded that these variances are minimally necessary to overcome the exceptional physical conditions found on the property. The Board reviewed the record and found that granting the relief requested would not substantially impair the intent, purpose, and integrity of the General Plan or Functional Master Plan, Area Master Plan, or Sector Plan affecting the subject property. Moreover, there was no evidence presented or contained in the record that the variances would substantially impair the use and enjoyment of adjacent properties, and developing the vacant lots would increase the aesthetics in the community. Lastly, the Board found the practical difficulty was not self-inflicted due to the Petitioner not commencing construction before seeking a variance.

BE IT THEREFORE RESOLVED, by a 3-0 vote, a variance of 1,000 square feet net lot area on the property located at 1304 Opus Avenue, Capitol Heights, 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 elevation plans, Exhibit 4 (A) thru (B).

BOARD OF ZONING APPEALS

By:   
Omar Boulware (May 23, 2025 14:36 EDT)  
\_\_\_\_\_  
Omar Boulware, Chair

APPROVED FOR LEGAL SUFFICIENCY

By:   
\_\_\_\_\_  
Keisha A. Garner, Esq.

**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 27-3613(c)(10)(B) 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.

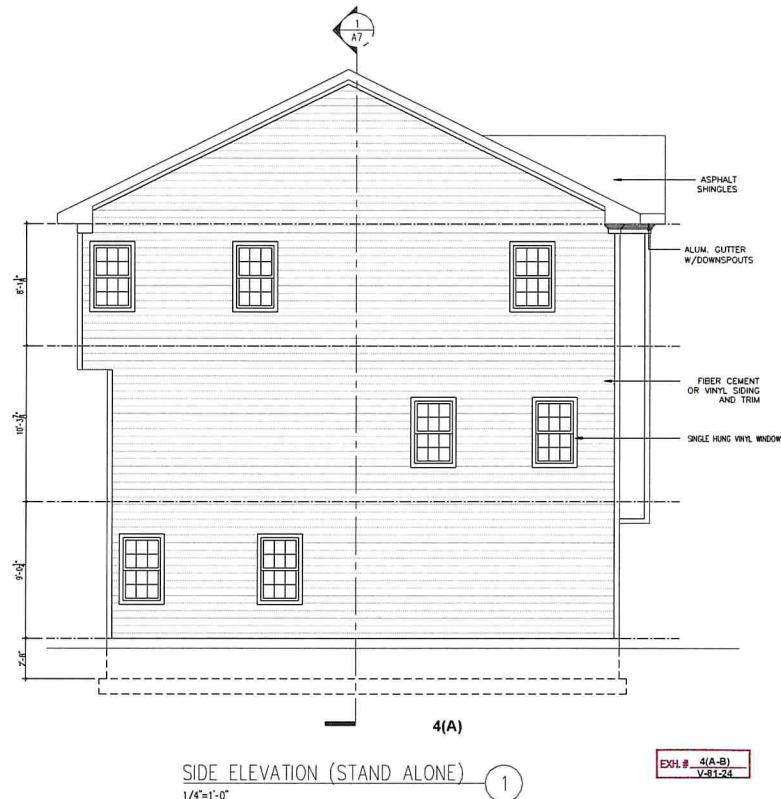


# BOARD OF APPEALS

APPROVED DEC - 4 2024

*Ellis Watson*

ADMINISTRATOR



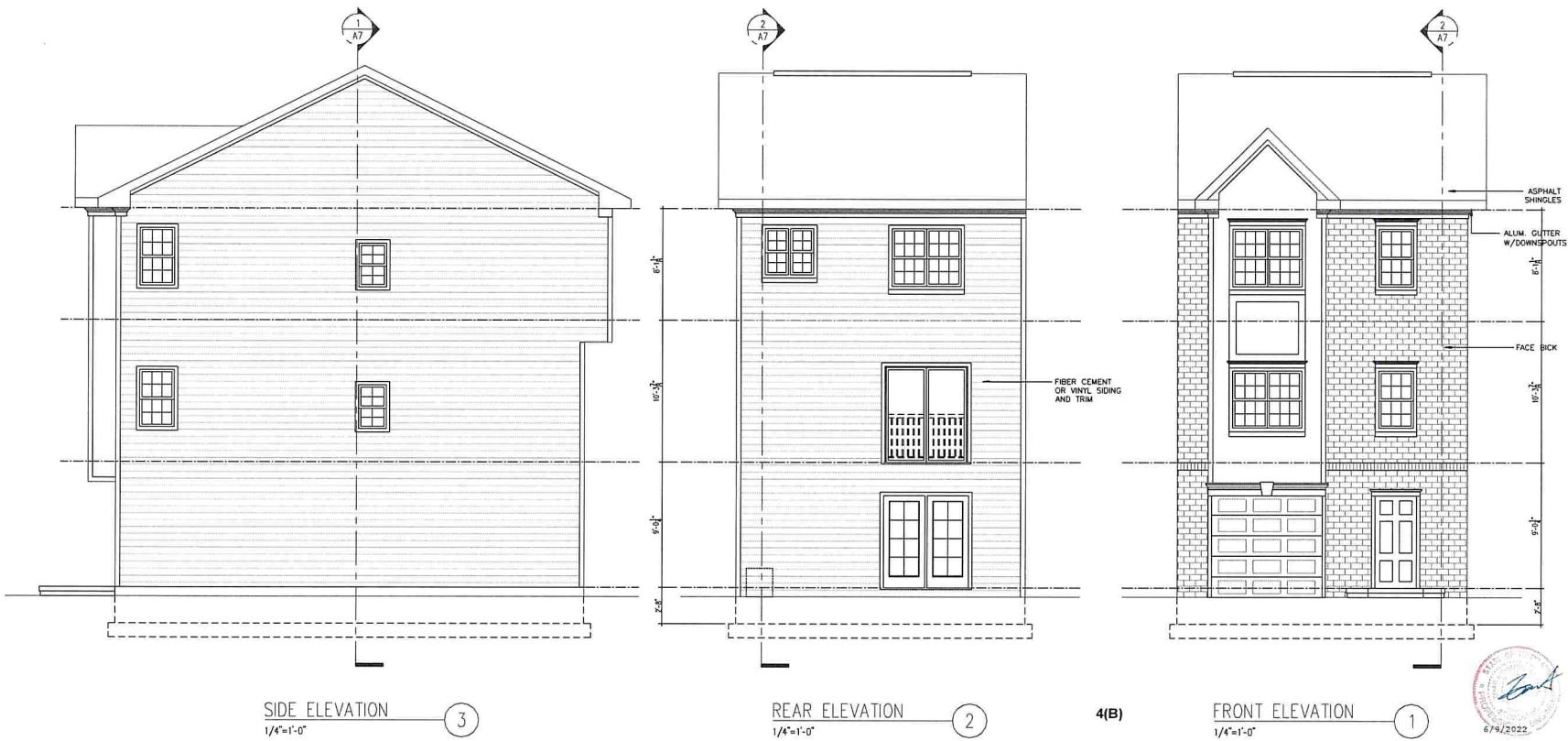
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JOB: 2017-012A

Applied Civil  
Engineering, Inc.  
9470 Annapolis Road #414  
Lanham, MD 20706  
TEL: 301.459.5932

DESCRIPTION	REV NO.	DATE

PROJECT TITLE	REV NO.	DATE
THE VIEW Aspenleaf Homes 8010 University Drive, Suite 100 Baltimore, Maryland 21209	GT	
	DRAWN BY	
	WITH	
	CHIEF-CHECKED BY	
	FILE NO.	
	PRINTED BY	



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Engineering, Inc.  
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FILE	LAST NAME	PERMIT #	ISSUED
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WASH			
THE DRAWN BY			

PROJECT TITLE  
**THE VIEW**  
**Aspenleaf Homes**  
1001 Trolley Drive, Dev. Site No. 1 • Rockville, Maryland 20850  
SHEET TITLE  
**ELEVATIONS**