

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-44-16 Angela Judge

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: July 13, 2016 .

**CERTIFICATE OF SERVICE**

This is to certify that on July 25, 2016, 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: Petitioner  
Adjoining Property Owners  
M-NCPPC, Permit Review Section  
DPIE/Building Code Official, Permitting  
Marlboro Riding Homeowners Association

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

Petitioner: Angela Judge

Appeal No.: V-44-16

Subject Property: Lot 26, Block A, Marlboro Riding Subdivision, being 5309 Chestnut Manor Court,  
Upper Marlboro, Prince George's County, Maryland

Witness: Michael Myaouenuh, HICE, Inc.

Heard: June 22, 2016; Decided: July 13, 2016

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(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a rear yard at least 20 feet in depth/width. Petitioner proposes to construct a deck. A variance of 9 feet rear yard depth/width is requested.

**Evidence Presented**

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

1. The property was subdivided in 2005, contains 11,948 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 4, 7 and 8. The existing dwelling was built in 2009. Exh. 7.
2. The property is located within an approved cluster subdivision. Exh. 4.
3. The property is an odd-shaped lot located on a cul-de-sac. Exhs. 2, 4, 9(A) thru (E).
4. Petitioner would like to construct a 20' x 22'/7.3' x 20.4' deck on the rear of the dwelling (Exh. 2), but a variance is needed in order to obtain a building permit. Since the deck would extend to within 11 feet of the rear property line, a variance of 9 feet rear yard depth/width was requested. Exh. 10.
5. Petitioner testified that she has lived at the property for six years and purchased the house with the intention of building a deck. She stated that a big hill and some trees are located on the property directly behind the subject property. *See* Exhs. 9(A) thru (E).
6. Michael Myaouenuh, Petitioner's contractor, stated that the existing sliding door, now barricaded and unable to be used in the morning room, will be used to access the deck. *See* Exh. 5.
7. Marlboro Riding Homeowners Association supported the request. Exh. 21.
8. The Subdivision Section of the Maryland-National Capital Park and Planning Commission reviewed the request and commented: Exhibit 2 correctly reflects the bearings, distances and lot size shown on the record plat of subdivision for Marlboro Riding Cluster Subdivision recorded in Plat Book REP 209-57. The proposed development does not alter the land uses described in the Preliminary Plan of Subdivision and therefore conforms to the applicable record plat note. Zoning Ordinance Section 27-229(b)(27) grants the Board the authority to grant variances for home improvements in cluster developments. The request was

also reviewed for conformance with the underlying Detailed Site Plan DSP-04043 and it was determined that it will have no impact on review of the request. Exh. 20.

### 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 lot, the property being located on a cul-de-sac, the sloping topography behind the lot, there being a strip of trees directly behind the property, the proposed deck providing an additional safety exit from the house, 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 9 feet rear yard depth/width in order to construct a 20' x 22'/7.3' x 20.4' deck on the property located at Lot 26, Block A, Marlboro Riding Subdivision, also being 5309 Chestnut Manor Court, Upper Marlboro, 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 plans, Exhibits 3(a) and (b).

### 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.