

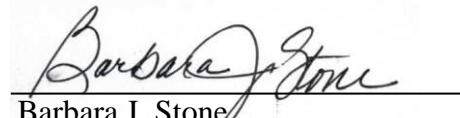
NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-88-17 Lake Marlton Limited Partnership

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: August 9, 2017.

CERTIFICATE OF SERVICE

This is to certify that on September 7, 2017, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Barbara J. Stone
Administrator

cc: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting

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

Petitioner: Lake Marlton Limited Partnership

Appeal No.: V-88-17

Subject Property: Lot 1, Wallace Landing Subdivision, being 12109 Wallace Lane, Upper Marlboro, Prince George's County, Maryland

Counsel for Petitioner: Norman Rivera, Esq.

Witness: Gary Evans, Caruso Homes

Heard and Decided: August 9, 2017

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 side yard at least 8 feet in width. Petitioner proposes to validate an existing condition and complete construction of a two-story single-family dwelling and driveway. A variance of 1.7 feet side yard width is requested.

Evidence Presented

1. The property was subdivided in 2005, contains 69,453 square feet, is zoned R-R (Rural Residential) and is to be improved with a single-family dwelling and driveway. Exhibits (Exhs.) 3, 5, 8 and 10 (A) thru (F).

2. Petitioner would like to complete construction of a 32' x 60' two-story dwelling and 18' x 46' driveway. A corner of the dwelling is located 6.3 feet from the right-side lot line. A variance of 1.7 feet side yard width is, therefore, requested. Exhs. 3, 4 (a) thru (c), 6 (A) thru (I) and 13.

3. The subject site is an odd shaped, trapezoidal lot. Exh. 3.

4. Attorney Norman Rivera stated that the topography of the subject property shows a steep slope, which influenced the location of the dwelling to be closer to the side lot line. He further opined that a conservation easement and a ravine also influenced the existing placement of the dwelling on the subject lot. Exhs. 3 and 5.¹

5. He explained that the purchasers of the subject property elected a side load garage which, in order to fit the dwelling on the lot, caused the house to be placed to the opposite side of the lot as far as possible. He then stated, the purchasers requested a full front porch option, which resulted in the 1.7-foot protrusion into the side yard setback. Exhs. 3 and 4 (a) thru (c).

6. Mr. Gary Evans explained that the building options are usually chosen prior to the foundation stage. He stated that houses are frequently re-sited and believed the side load garage is the key to the variance issue because the garage pushed the house over to the side. Exhs. 3, 4 (a) thru (c), 6 (A) thru (I).

¹ A dry well exists in the rear of the property. Exh 3.

7. Mr. Gary Evans added that permits were issued for the dwelling for which no violations were cited. He testified that the need for the variance was discovered from a wall check at which time Caruso Homes pursued validation of the condition prior to settlement on the property.

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 owners 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 odd shape of the lot, being trapezoidal, the construction of the side load garage, the location of both a ravine and conservation easement on the property further limiting the location of 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 owners of the property.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 1.7 feet side yard width in order to validate an existing condition and complete construction of a 32' x 60' two-story dwelling and 18' x 46' driveway on the property located at Lot 1, Wallace Landing Subdivision, being 12109 Wallace Lane, 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 3 and approved elevation plans, Exhibits 4 (a) thru (c).

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.