

NOTICE OF FINAL DECISION

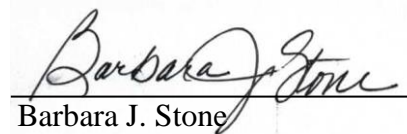
OF BOARD OF APPEALS

RE: Case No. V-100-17 Linda and Ernest Banks, Sr.

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: September 13, 2017.

CERTIFICATE OF SERVICE

This is to certify that on September 29, 2017, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.


Barbara J. Stone
Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Legend Glen Recreation Association

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

Petitioners: Linda and Ernest Banks, Sr.

Appeal No.: V-100-17

Subject Property: Lot 27, Block B, Lottsford Community Subdivision, being 4425 Saddle River Drive,
Bowie, Prince George's County, Maryland

Heard and Decided: September 13, 2017

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Albert C. Scott, Vice Chairman

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 variances 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 variances from Section 24-129(a)(5) of the Zoning Ordinance which prescribes that a 25 foot setback from the floodplain shall be established for residences as a building restriction line; Section 27-442(e)(Table IV), which prescribes that each lot shall have a rear yard at least 20 feet in depth/width; Section 27-442(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking; and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 2 feet from the rear lot line and generally be located only in the rear yard. Petitioners propose to validate an existing condition and construct a deck within a floodplain easement. Variances of 10 feet from the floodplain easement and 5 feet rear yard depth/width for a deck, 1.5% net lot coverage, and waivers of the floodplain easement and rear yard location requirements for an accessory building are requested.

Evidence Presented

The following testimony and evidence were presented to the Board for its consideration:

1. The property was subdivided in 1988, contains 10,000 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and shed. The property, located within a cluster subdivision, is an odd-shaped 6-sided lot located on a cul-de-sac. Exhibits (Exhs.) 2, 4, 8 and 10 (A) thru (F).

2. Petitioners propose to construct a 20' x 12' deck on the rear of the house. The deck would be located 15 feet from the rear lot line and extend 10 feet into the floodplain easement. Variances of 10 feet from the floodplain easement and 5 feet rear yard depth/width were requested. Exhs. 2, 3, 5 (A) thru (Q), 6 (A) thru (C) and 10 (A) thru (F).

3. An existing shed, currently in the rear yard towards the side lot line and within the floodplain easement, will be partially located in the side yard after construction of the proposed deck. Construction of the shed, which requires a permit, exceeded the amount of lot coverage allowed. A variance of 1.5% net lot coverage was requested. Waivers of the floodplain easement and rear yard location requirements for an accessory building were requested. Exhs. 2, 5 (A) thru (Q), 6 (A) thru (C) and 10 (A) thru (F).

4. Petitioner Linda Banks testified that they would like to construct a 20' x 12' deck off the rear of their home with the deck (no steps) being level with their family room. She further testified that the land directly behind them, "Lottsford Community, Parcel C, NLP 137-30", belongs to the Maryland National Capital Park and Planning Commission (M-NCPPC), in addition to an existing 100 Year Flood Plain

Easement. Petitioner explained that because a 25-foot building restriction line precludes building a fence on the rear property line and the adjoining M-NCPPC property being wooded, (wild) animals wonder uninhibited into their yard. She stated that the proposed deck would allow them to (safely) enjoy the back yard. Exhs. 2, 4, 5 (A) thru (Q), 6 (A) thru (C) and 10 (A) thru (F).

5. The Legend Glen Recreation Association, Inc./ Legend Glen Council supports the proposed variances. Exh. 21.

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 lot being an odd shape, a 100 Year Flood Plain Easement following the rear and side property lines, the inability to utilize their back yard because of wild life 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, by majority vote, Anastasia Johnson absent, that variances of 10 feet from the floodplain easement and 5 feet rear yard depth/width for a deck, 1.5% net lot coverage, and waivers of the floodplain easement and rear yard location requirements for an accessory building in order to validate an existing condition and construct a 20' x 12' deck within the floodplain easement on the property located at Lot 27, Block B, Lottsford Community Subdivision, being 4425 Saddle River Drive, Bowie, Prince George's County, Maryland, are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 2 and 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.