

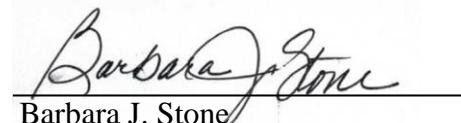
*NOTICE OF FINAL DECISION*  
*OF BOARD OF APPEALS*

RE: Case No. V-182-17 OPL Investments 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: February 14, 2018.

**CERTIFICATE OF SERVICE**

This is to certify that on February 26, 2018, 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  
Other Interested Parties

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

Petitioner: OPL Investments LLC

Appeal No.: V-182-17

Subject Property: Parcel 115, Tax Map 137, Grid 115, being 13305 Van Brady Road, Upper Marlboro, Prince George's County, Maryland

Counsel for Petitioner: Tom Haller, Esq., Gibbs and Haller

Witnesses: Octavio Pedroza, Owner, subject property

Audrey Windsor, Neighbor

Barbara Harper, Neighbor

Priscilla Walker, Neighbor

Heard and Decided: February 14, 2018

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 validate an existing condition (dwelling) and construct a second-floor addition. A variance of 8 feet rear yard depth/width is requested.

**Evidence Presented**

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

1. The property contains 220,688 square feet (5.06 acres), is zoned O-S (Open Space) and is improved with a single-family dwelling, garage, driveway, barn, three stables and a shed. Exhibits (Exhs.) 2, 6, 7, 8, 9, 10, 12, 13 and 14 (A) thru (F).<sup>1</sup>

2. The shape of the lot is an unusual shape with steep slopes in the topography leading up to the house which sits on a plateau. Exhs. 2, 4, (A) thru (H), 14 (A) thru (F), 24 and 25.

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<sup>1</sup> The M-NCPPC Subdivision and Zoning Section clarified that the property was legally divided by deed dated August 15, 1992, recorded in L.8449 at F.379 pursuant to Section 24-107(c)(3) and subsequently by deed dated March 4, 1993, recorded in L.8703 at F.957. The legal description is known as Parcel 115 on Tax Map 137 in Grid B2. Exhs. 6, 7, 8, 9, and 10.

3. Petitioner would like to construct a 48' 4.5" x 15' 7.5" second-story addition over an existing 15.10' x 32' one-story addition, which is located 12 feet from the rear lot line. A variance of 8 feet rear yard depth/width was requested. Exhs. 2, 3, 4, (A) thru (H), 14 (A) thru (F), 24 and 25.

4. The garage will be converted into a first level addition and the existing deck above the garage will be converted into a second level addition. Exhs. 2, 3, 4, (A) thru (H), 14 (A) thru (F), 24 and 25.

5. Mr. Tom Haller explained that the subject property has an existing house to which is attached an existing garage, and a storage shed. To the left of the house is a stable and another shed. The property was at one time part of a larger tract of land that contained around 30 acres. In the early 1990's it was subdivided into several parcels through a family conveyance subdivision. Part of the reason for the unusual shape of the lot is that the tail of the lot extends towards a body of water. He said that the property has a large amount of frontage on Van Brady Road, about 650 feet as the road curves.

In further describing the dwelling, he said that the house is located up against the side lot line. The rear of the house faces the side lot line as opposed to being constructed in the middle of the lot. The house was built in 1994. To the rear of the subject house there is a driveway area along the property line with a fence which leads to Ms. Windsor's house. Somewhere between 2005 and 2007 (aerial photo) a 1 story garage addition was constructed on the rear of the house. The garage currently has a flat roof which is a deck. Exhs. 2, 24, 25, and 26.

In describing the topography, he stated that the topographic lines of the property are sloped from the street up to the hill. There is a plateau approximately 20 feet from the road and the house is constructed on the plateau on the flattest part of the property, which runs along the property line.

7. Mr. Haller further stated that Mr. Pedroza (OPL Investments LLC) purchased the property in its current state and would like to convert the garage into living space and add a second story addition, tying in the roof line so he has additional living space. When the garage was constructed it was only 12 feet from the (side lot line) property line. He stated that there is no evidence of a permit for the garage. Exhs. 2, 24, 25, and 26.

8. Mr. Pedroza testified that he is the owner of OPL Investments, LLC, which was created to purchase a couple of houses. This house, which needed repairs, was purchased so that his family of six could live in it. The dwelling had been vacated at the time of purchase in April 2016. The square footage of the house is only 1,100 square feet; therefore, he would like to add living space. The garage area will contain a play room for his children and a storage area. The upper floor will be a sun room, part of the kitchen and part of the master bedroom. The footprint of the proposed construction will remain the same as the current development and will be situated no closer to the side property line than it is currently. Exhs. 2, 3, 4 (A) thru (H), 24, 25, and 26.

9. He explained that placing the proposed addition on the side of the house is impossible because of the existence of a well. Exhs. 2, 4 (A) thru (H) and 25.

10. Ms. Windsor, 13211 Van Brady Road, Upper Marlboro, testified that she was not made aware of Petitioner's building plans and was concerned because the prior owner constructed the garage so close to her side property line. Ms. Windsor explained that the proposed construction would not be objectionable so long as Petitioner builds on his property and not hers.

11. Priscilla Walker, 13101 Van Brady Road, Upper Marlboro, stated that she is an adjoining neighbor and is concerned with the safety of Petitioner's children and the playroom area (part of the proposed addition) being located so close to Ms. Windsor's driveway. She stated there is a split rail fence along their common property line and when the children are outside playing, they crawl through the fence onto Ms. Windsor driveway, a potential safety hazard for both her and the children. Exhs. 2, 3 and 25.

12. Petitioner agreed to add some type of material to that portion of his split rail fence, so the children could not go through the fence.

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 and the steep topography, the house sitting up on the only suitable area available (a plateau along the side property line), the location of the well 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 8 feet rear yard depth/width to validate an existing condition and construct a 48'4.5" x 15'7.5" second-floor addition on the property located at Parcel 115, Tax Map 137, Grid 115, being 13305 Van Brady Road, 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 revised site plan, Exhibit 25 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.