

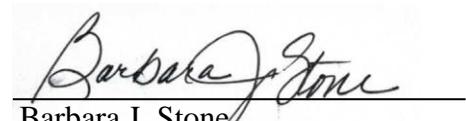
NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-205-17 Robin McNab

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: March 28, 2018.

CERTIFICATE OF SERVICE

This is to certify that on April 5, 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

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

Petitioner: Robin McNab

Appeal No.: V-205-17

Subject Property: Lot 1, Hook's Subdivision, being 8440 Duvall Road, Upper Marlboro,
Prince George's County, Maryland

Heard: March 14, 2018; Decided: March 28, 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 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, Petitioner requests that the Board approve variances from Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from the front street line and generally be located only in the rear yard. Petitioner proposes to construct a solar array in the side yard. A variance of 8 feet front street line setback and a waiver of the rear yard location requirement for an accessory building are requested.

Evidence Presented

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

1. The property was subdivided in 1974, contains 80,978.04 square feet (1.859 acres), is zoned O-S (Open Space) and is improved with a single-family dwelling, driveway, in-ground swimming pool, screen porch, pole barn and two sheds. Exhibits (Exhs.) 3, 5, 9, 10 and 11 (A) thru (F).

2. Petitioner would like to construct a 19.5' x 27.5' solar array, consisting of 30 panels, which would be located 52 feet from the front street line and beside the dwelling. A variance of 8 feet front street line setback and a waiver of the rear yard location requirement for an accessory building were requested. Exhs. 3, 4, 6 (A) thru (C) and 12.

3. Petitioner Robin McNab initially submitted a site plan (Exh. 2) showing the solar array 52' from the front property line.¹ Exhs. 3 and 20.

4. Petitioner testified that the placement of the solar array on the roof would not be suitable because the roof is not facing the "correct direction" and she does not want to jeopardize the integrity of the roof. Exhs. 6 (A) thru (C).

5. American Sentry Solar submitted a letter stating that the array must be in the side yard as the location is a low spot in the yard that also has the least amount of shading. Exh. 2.

¹ Petitioner submitted a revised site plan demonstrating that the actual measurement of the solar array to be 73' from the front property line. Because the proposed solar meets the front yard setback of 60' a variance from front street line setback is no longer necessary. 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 topography, the proposed location for the solar panels being a low spot in the yard that also has the least amount of shade 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, a waiver of the rear yard location requirement for an accessory building to construct a 19.5' x 27.5' solar array, consisting of 30 panels, in the side yard on the property located at Lot 1, Hook's Subdivision, being 8440 Duvall Road, Upper Marlboro, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved revised site plan, Exhibit 20 and approved elevation plan, Exhibit 4.

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.