



THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

WAYNE K. CURRY COUNTY ADMINISTRATION BUILDING, LARGO, MARYLAND 20774
TELEPHONE (301) 952-3220

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-91-22 Michael and Natasha Whitt

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 8, 2023.

CERTIFICATE OF SERVICE

This is to certify that on April 14, 2023 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

A handwritten signature in black ink, appearing to read "Barbara J. Stone". Below the signature, the name "Barbara J. Stone" is printed in a standard font, followed by the title "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

Petitioners: Michael and Natasha Whitt

Appeal No.: V-91-22

Subject Property: Parcel 52, Tax Map 138, being 15650 Candy Hill Road, Upper Marlboro, Prince George's County, Maryland

Heard and Decided: February 8, 2023

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Anastasia T. Johnson, Member
Renee Alston, Member
Carl Isler, Member
Teia Hill, 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 27-27-3613 of the Zoning Ordinance, Petitioners request that the Board approve a variance from Section 27-4201(c)(2) which prescribes that each lot shall have a minimum net lot area of 5 acres and a minimum front yard depth of 50 feet. Petitioners propose to validate an existing condition (net lot area) and obtain permission to construct a 12' x 16' shed and a 10' x 20' shed. Variances of 67,082.40 square feet (1.54 acres) net lot area and 22 feet front yard depth are requested.

Evidence Presented

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

1. The property was subdivided by deed in 2022, contains 150,891.84 square feet (3.464 acres) is Zoned AG (Agriculture and Preservation) and is improved with a single-family dwelling, detached garage, driveway, screened deck and shed. Exhibits (Exhs.) 2, 4, 5, 8, 9 and 10 (A) thru (E).
2. The subject property is unusually shaped and is very long. The front yard is 794.11 feet in length along the front street line. The property contains hills and slopes and a septic area and well. Exhs. 2, 4, 5, 8, 9 and 10 (A) thru (E).
3. Petitioners propose to validate an existing condition (net lot area) and obtain permission to construct two new structures: a 12' x 16' shed and a 10' x 20' shed. For the net lot area, a variance of 67,082.40 square feet (1.54 acres) net lot area is required.¹ For one shed that is 10' x 20', a variance of 22 feet front yard depth is needed because that shed must be at least 50 feet from the front street line. Exhs. 2, 4, 5, 8, 9 and 10 (A) thru (E).
4. Mr. Michael Whitt testified that he and his wife produce a variety of fruits and vegetables which are sold at the Capital Market, a small farmers market. As they grow their farming operation, they would like to resolve any issues that may stem from a lack of infrastructure to ensure the success of the business.

¹ Because the property was previously subdivided by deed, it does not meet the current zoning requirement for net lot area in the AG Zone under the Zoning Ordinance. Exh. 5.

5. Mr. Whitt stated that both new sheds will assist with the agricultural aspect of collecting rainfall from the roof to be used for irrigation during extended dry periods during the summer. The sheds will also be utilized to store and protect farming equipment and implements from the weather. He stated that the proposed sheds will be used entirely for agricultural purposes. Exhs. 2, 3, and 6 (A) thru (I).

6. He further stated that the subject property is zoned agricultural and surrounded by other properties which are similarly zoned agricultural. He submitted aerial photographs showing the surrounding agricultural properties and the location of the proposed sheds. He stated that the new sheds will be in character with the community. Exhs. 2, 3, and 6 (A) thru (I).

7. He contended that, unfortunately, due to the small size of the subject property in the AG zone, petitioners cannot obtain the use of the agricultural tax benefits, but instead must obtain building permits and the requested variances for their venture.

Applicable Code Section and Authority

The Board is authorized to grant the requested variances if it finds that the following provisions of Section 27-3613 (d) of the Prince George's County Zoning Ordinance are satisfied:

(d) General Variance Decision Standards

A variance may only be granted when the review board or official, as appropriate, finds that:

- (1) A specific parcel of land is physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness, shallowness, shape, exceptional topographic conditions, or other extraordinary conditions peculiar to the specific parcel (such as historical significance or environmentally sensitive features);
- (2) The particular uniqueness and peculiarity of the specific property causes a zoning provision to impact disproportionately upon that property, such that strict application of the provision will result in peculiar and unusual practical difficulties to the owner of the property;
- (3) Such variance is the minimum reasonably necessary to overcome the exceptional physical conditions;
- (4) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the General Plan or any Functional Master Plan, Area Master Plan, or Sector Plan affecting the subject property;
- (5) Such variance will not substantially impair the use and enjoyment of adjacent properties; and
- (6) A variance may not be granted if the practical difficulty is self-inflicted by the owner of the property.

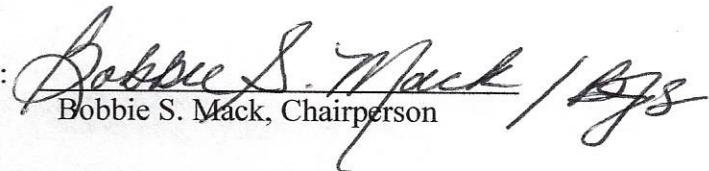
Findings of the Board

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 27-3613(d), more specifically:

Due to the preexisting smaller net lot size of the subject property in the AG Zone, the agricultural need to collect rainwater throughout the property for irrigation of fruit and vegetable crops for sale at the farmers market, the need for additional sheds to collect the rainwater as well as to store and protect farm equipment and implements 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 67,082.40 square feet (1.54 acres) net lot area and 22 feet front yard depth in order to validate existing conditions (net lot area) and obtain permission to construct a 12' x 16' shed and a 10' x 20' shed on the property located at 15650 Candy Hill Road, Upper Marlboro, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exh. 2 and approved elevation plans, Exh. 3.

BOARD OF ZONING APPEALS

By: 
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 27-3613(c)(10)(B) 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.

BOARD OF APPEALS

APPROVED FEB 08 2023


Administrator

