



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

COUNTY ADMINISTRATION BUILDING, UPPER MARLBORO, MARYLAND 20772  
TELEPHONE (301) 952-3220

## *NOTICE OF FINAL DECISION*

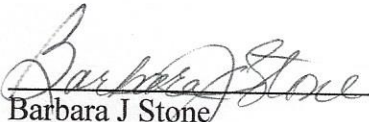
### *OF BOARD OF APPEALS*

RE: Case No. V-77-20 Rachel Alexandra James

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 24, 2021

## **CERTIFICATE OF SERVICE**

This is to certify that on May 6, 2021, 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: Rachel Alexandra James

Appeal No.: V-77-20

Subject Property: Lot 7, Block 106, Forest Hight Subdivision, being 5708 Black Hawk Drive, Oxon Hill,  
Prince George's County, Maryland

Witness: Jermaine Howard, Architect

Heard: February 24, 2021; Decided: March 24, 2021

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 obtain a building permit for the construction of a deck and gazebo. A variance of 8 feet side yard width<sup>1</sup> is requested.

Evidence Presented

1. The property was subdivided in 1946, contains 12,685 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway, and two sheds. Exhibits (Exhs.) 2, 4, 7, 8 and 9 (A) thru (F).
2. The lot is odd-shaped and narrows on the sides from the rear to the front of the lot. Exh. 2.
3. Petitioner would like to obtain a building permit for the construction of a deck and gazebo. Due to the proposed deck not meeting the left side yard setback, a variance of 5 feet is required. Exhs. 2, 4, 7, 8 and 9 (A) thru (F).
4. Petitioner Rachel James testified that the because the prior deck was deteriorating and unsafe structurally, it was removed. She would like to replace the deck partially over the existing footprint of the prior deck, but it will be so close to the left side lot line, the requested variance is needed. Petitioner agreed to move the deck away from the property line by three feet. She stated that the new deck will similarly be accessible the rear door from the house. She further explained that there will be stairs that lead from the deck to the ground which will provide an emergency exit from the rear of the home. Exhs. 2, 3 (a) thru (c), 5 (A) thru (D), 13 (a) thru (b) and 14.
5. Ms. James explained that the proposed deck will not be closed in on the floor, so water will be able to flow through the floor and it will help in keeping snow and debris off the vehicles in the driveway below it. Ms. James explained that she is a police officer and uses her driveway to protect her police cruiser and her personal vehicle.

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<sup>1</sup> Petitioner has revised the site plan and elevation plans to pull the proposed deck from the left side yard by 3 feet. Therefore, the side yard width variance request is now reduced to 5 feet. The new overall dimensions of the deck are 22' x 16'. Exhs. 13 and 14 (a) thru (b).



6. Architect Jermaine Howard testified that the new deck will be approximately 22 feet over top the driveway from the house. The depth of the deck will be 15'. He stated that the existing driveway is a two-car driveway. He explained that the reason the deck is spanning across the driveway and not meeting the setback requirement, is because of the expanded structural support necessary for it, given that the two-car driveway will be directly below the deck.

7. With the Petitioner's agreement to reduce the deck, the new overall dimensions will be 22' x 16', setting the deck 3 feet off the left side property line. Exhs. 2, 3 (a) thru (c), 5 (A) thru (D), 13 (a) thru (b) and 14.

#### 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

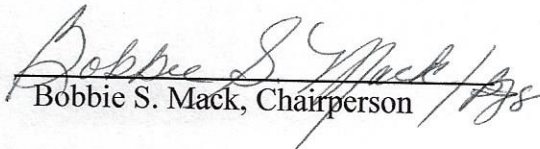
After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the odd-shaped of the lot narrowing on the left side where the deck will be located, the deterioration and need for replacement of the prior deck for structural safety, the preexistence of the two-car driveway that will be located below the proposed deck, the need for Petitioner to maintain and protect her police cruiser 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, that a variance of 5 feet side yard width in order to obtain a building permit for the construction of a deck and gazebo on the property located at 5708 Black Hawk Drive, Oxon Hill, 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, Exh. 13 and approved revised elevation plans, Exhs. 14 (a) thru (b).

#### 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 27-233(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.









