

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

Petitioners: Michelle and Jose Smith

Appeal No.: V-51-19

Subject Property: Lot 109, Charles Hill Subdivision, being 5100 Sly Fox Court, Upper Marlboro, Prince George's County, Maryland

Heard and Decided: September 18, 2019

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, Petitioners request that the Board approve a variance from Section 27-442(e)(Table IV) which prescribes that each lot shall have a rear yard at least 20 feet in depth/width. Petitioners proposes to construct an open deck with steps. A variance of 17 feet rear yard depth/width is requested.

Evidence Presented

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

1. The property was subdivided in 2003, contains 13,096 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, and driveway. Exhibits (Exhs.) 2, 4, 8, 9 and 10 (a) thru (b).

2. Petitioners would like to construct a 20' x 12' open deck with steps in the rear of the property. Because the shape of the lot and the location of the dwelling, the deck is encroaching the rear setback, a variance of 17 feet rear yard setback is required. Exhs. 2, 3 (a) thru (b) and 5 (A) thru (E).

3. Petitioner Michelle Smith testified that the property is located within a cul-de-sac with the lot being an odd-shaped triangle or pie shape. She stated that because of the shape of the lot, and her homeowner association restricting the location of the proposed deck to the rear yard. She contends that without the variance, Petitioners would not be able to enjoy the rear yard area as others do. She also stated because the rear yard slopes to a lower elevation, the family needs the elevated deck as an area in which to enjoy the backyard. Exhs. 2, 3 (a) thru (b) and 5 (A) thru (E).

4. Jose Smith stated that there are other decks in the neighborhood that were not bound by the same restrictions and hampered by topography. He stated that the proposed deck will be elevated off the ground by 8 feet and steps from the deck are needed so the back door to the deck could be used as an emergency exit from the kitchen. Exhs. 2, 3 (a) thru (b) and 5 (A) thru (E).

5. The Riding at Upper Marlboro Homeowners Association has approved the proposed deck with stairs. Exh. 18.

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 shape of the lot, the restriction to build a deck only in the rear yard area, the downgrade slope of the rear yard preventing enjoyment in that area, the need for an emergency exit from the kitchen 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 17 feet rear yard depth/width in order to construct an open deck with steps on the property located at 5100 Sly Fox Court, 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 site plan, Exhibit 2 and approved elevation plans, Exhibits 3 (a) thru (b).

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.