

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

Petitioners: Marcus and Monique Sykes

Appeal No.: V-139-19

Subject Property: Lot 44, Block C, Cheltenham Park Cluster Subdivision, being 9707 Digby Court, Clinton,  
Prince George's County, Maryland

Heard and Decided: December 4, 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 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, 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 propose to obtain a building permit for a construction of an open deck with stairs. Variance of 7 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 1990, contains 10,909 square feet, is zoned R-80 (One-Family Detached Residential) Cluster Development <sup>1</sup> and is improved with a two-story single-family dwelling and driveway. Exhibits (Exhs) 2, 4, 7, 8 and 9 (A) thru (F).
2. The subject property is located within a cul-de-sac creating a shallow pie shaped lot. Exhs 2, 4, 7, 8 and 9 (A) thru (F).
3. Petitioners would like to construct a 22' x 16' deck on the rear of the dwelling. The proposed deck does not meet the rear yard setback of 20 feet. Therefore, a variance of 7 feet rear yard depth is requested. Exhs. 2, 3, 5 (A) thru (F).
4. Petitioner Marcus Sykes stated that because of the shape of the lot, the proposed deck encroaches into the building restriction line. He opined that any size deck would encroach the building restriction line. The reason for the deck is to provide safety of his family because since the kitchen door being 8-feet above grade, the deck and steps to the yard will allow emergency exit from the dwelling. Exhs. 2, 3, 5 (A) thru (F).
5. Cheltenham Park Homeowners Association approved the requested variance for the proposed deck. Exh. 17.

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<sup>1</sup> The subject property is located within a Cluster Development approved under DSP-90101. Section 27-229 (b)(27) states the Board of Appeals does not have the authority to grant a variance to any requirements applicable to Cluster Developments, *except for Home Improvements*. Sec 27-107.01 defines "Home Improvement as modifications customarily made to dwellings for the purposes of enlargement, alteration, or the addition of a fireplace, porch, deck, carport, patio, shed, garage, driveway, or swimming pool.

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 subject property being a narrow pie shaped lot within a cul-de-sac, the need for family safety provided by the proposed deck, 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 7 feet rear yard depth/width in order to obtain a building permit for proposed construction of an open deck with stairs on the property located at 9707 Digby Court, Clinton, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2 and approved elevation plan, Exhibit 3.

## BOARD OF ZONING APPEALS

By: \_\_\_\_\_

ORIGINAL SIGNED)

Bobbie S. Mack, Chairperson

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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.