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FINAL PLAT OF SUBDIVISION VARIANCE

5-04068
VF-04068

Application	General Data			
<div>PROJECT NAME & RECORD PLAT AFFECTED</div> <div>Federal Springs Estates, Lots 7-A and 8-A</div> <div>LOCATION</div> <div>West side of Federal Court, approximately 2,000 feet south of William Beanes Road, Upper Marlboro, MD</div> <div>APPLICANT/ADDRESS</div> <div>Stephen Lowery 5903 Federal Court Upper Marlboro, MD 20772</div>	Date Accepted		03/04/04	
	Planning Board Action Limit		4/03/04	
	ZHE Hearing Date		N/A	
	Plan Acreage		4.3	
	Zone	R-A	TMG	100-C3
	Dwelling Units			
	Square Footage			
	Planning Area		82A	
	Council District		08	
	Municipality N/A			
	200-Scale Base Map		208SE10	

Purpose of Application	Notice Dates	
Final Plat 5-04068 to adjust the common lot line between Lots 7 and 8, Federal Springs Estates, recorded in Plat Book 118-30. Companion case VF-04068 for Variance to Section 27-442(b) and Variation to Section 24-128(b)(1)(B) of the Subdivision Regulations	Adjoining Property Owners (CB-15-1998)	03/05/04
	Previous Parties of Record (CB-13-1997)	N/A
	Sign(s) Posted on Site	N/A
	Adjoining Property Owners	

Staff Recommendation			Staff Reviewer: Becky Nordan
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
X			

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Lot 7-A and Lot 8-A, Federal Springs Estates
Final Plat of Subdivision 5-04068
Variance VF-04068 for 7,380 square feet Section 27-442(b)
Variation from Section 24-128(b)(1)(B) Private roads and easements

OVERVIEW

The subject property consists of two record lots in the R-A Zone and is located on Federal Court on the south side of William Beanes Road in Upper Marlboro. Lots 7 and 8 of this subdivision are owned by the applicant and his father, respectively. Lot 7 is improved with a single-family home, owned by the applicant. Lot 8 is undeveloped, with the exception of the barn, and has a net lot area of 2.0029 acres. Both lot owners now wish to sell their properties but the prospective purchasers of Lot 7 wish to include the barn as part of the property conveyed to them. The current lot configuration does not permit the barn to be conveyed with Lot 7 without a property line adjustment. Such a property line adjustment is normally allowed by the approval of a new final plat by the Planning Director. However, the combined area of Lots 7 and 8 is not sufficient to create two conforming lots. Therefore, the property line adjustment may not occur without a variance, which necessitates this plat to come before the Planning Board. Further, a lot with less than two acres of net lot area does not meet the Subdivision Regulation requirement for using a private access easement pursuant to Section 24-128(b)(1)(B). To accomplish the conveyance of Lot 7 with the barn, the resubdivision plat proposes to adjust the common property line of Lots 7 and 8. In addition to adding the barn to proposed Lot 7-A, this plat proposes the exchange of land between Lots 7 and 8 to keep the lot areas approximately the same size that they were on the plat recorded in 1983.

The applicant is requesting a Variance for Lot 7-A of 7,380 square feet to the minimum net lot area of two acres in the R-A Zone, Section 27-442(b). Lot 7 of the Federal Springs Estates Subdivision was recorded on October 31, 1983, with a 22-foot-wide private access easement as part of its net lot area. Based on the Zoning Ordinance's definition of net lot area, proposed Lot 7-A does not contain enough lot area exclusive of the private access easement to comply with the two-acre minimum net lot area requirement of the R-A Zone.

The applicant is also requesting a Variation to Section 24-128(b)(1)(B) of the Subdivision Regulations for Lot 7-A to be able to use the existing access easement that has provided sole access to the property since the recording of the plat in 1983. The gross lot area of Lot 7-A is 2.15 acres, with a net lot area of 1.8306 acres after subtracting the area of the private right-of-way easement established by plat VJ 118-30. The existing plat, recorded in 1983, was erroneously approved with lots falling below the two-acre required minimum for lots being served by private access easements. In 1983, staff focused on the gross lot area meeting the two-acre minimum lot size without subtracting the area of private easements. Granting a variation to Lot 7-A would resolve any future discrepancies with permit applications for the lot pertaining to conformance with the private right-of-way requirements.

Section 124-128(b)(1) permits the use of private right-of-way easements for one-family dwellings if the easement has a minimum width of 22 feet, a net lot area of two acres, and no more than four lots are

served by the easement. Lots 7-A is in compliance with all of the requirements except the two-acre minimum net lot area. Lot 8-A meets the two-acre minimum lot area.

Approval by the Planning Board of the requested variance and variation will allow the applicant to record subdivision plat 5-04068 that acknowledges the variance and variation for Lot 7-A.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

1. Section 27-239.03. District Council and Planning Board authority.

When the District Council or Planning Board makes a final decision in a zoning case, site plan, or other request, the District Council or Planning Board shall have the authority to grant variances from the strict application of this Subtitle in conjunction with its approval. The Council and Planning Board shall be governed by the provisions of Section 27-230 when it grants the variance. **The request to approve variances in conjunction with a final plat of subdivision involves a final decision by the Planning Board. The subject application has no associated preliminary plan.**

A variance for 7,380 square feet (Section 27-442(d) Table I) has been requested for Lot 7-A and is contained in Variance Application VF-04068. The minimum net lot area required is 87,120 square feet, or two acres, in the R-A Zone.

Section 27-230(a) of the Zoning Ordinance states that a variance may only be granted when the Planning Board finds that:

- a. **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or circumstances.** Lot 7, or proposed Lot 7-A, is an extraordinary situation in that it did not and will not contain enough lot area exclusive of the private access easement to comply with the minimum two-acre requirement in the R-A Zone. There are extraordinary circumstances associated with this application. A home was constructed on Lot 7 pursuant to building permit 8310176-2001, issued July 12, 2002. Adjacent lots are owned by private individuals and either have homes constructed on them or they also need the minimum two-acre lot size to provide them legal access in order to construct a home in the future. Therefore, no additional land can be obtained to bring Lot 7-A into compliance with the minimum net lot area requirements.
- b. **The strict application of the Zoning Ordinance will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon the owner of the property.** The owner of Lot 7 relied on the integrity of the recorded plat, and anticipated the reasonable use and future sale of the property based on the plat. The nonconforming status of Lot 7 presents an exceptional and undue hardship on the applicant because the property is not approvable for a residential permit.
- c. **The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.** Since the proposed resubdivision is simply transferring a small amount of land from one lot to the other, there will be no change in density. No additional lots are being created by this subdivision plat.

2. Approval of the variation brings Lot 7-A into compliance with Section 24-128(b)(1)(B) and allows Lot 7-A to share the 22-foot-wide easement with Lot 8-A.

3. The owners of both lots have joined in the application for subdivision plat 5-04068 to be recorded subsequent to the approval of Variance VF-04068 and the variation by the Prince George's County Planning Board.
4. The new subdivision plat entitled Lots 7-A and 8-A, Federal Springs Estates, notes that Variance VF-04068 and a Variation were approved by the Prince George's County Planning Board, which will make approvals a matter of public record upon recordation of final plat 5-04068.

RECOMMENDATION: APPROVAL