

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-3-16 Alexander Velasquez and Aminda Sola

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 23, 2016 .

CERTIFICATE OF SERVICE

This is to certify that on April 7, 2016 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed) _____
Anne F. Carter
Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
City of Seat Pleasant
Ernesto Luna, Spanish Language Interpreter

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

Petitioners: Alexander Velasquez and Aminda Sola
Appeal No.: V-3-16
Subject Property: Lot 12, Block C, Gregory Estates Subdivision, being 6403 Greig Street, Capitol Heights,
Prince George's County, Maryland
Municipality: City of Seat Pleasant
Spanish Language Interpreter: Ernesto Luna
Witnesses: Argelia Fuentes, wife of Alexander Velasquez
Cathy Stanley, neighbor
Walter Stanley, neighbor
Heard: February 24, 2016; Decided: March 23, 2016
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 variances from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a front yard at least 25 feet in depth and a side yard at least 7 feet in width, and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 2 feet from any side lot line. Petitioners propose to validate existing conditions and obtain a building permit for a new deck with steps. Variances of 3 feet front yard depth, 6 feet side yard width and 1 foot side lot line setback for an accessory building are requested.

Evidence Presented

1. The property was subdivided in 1949, contains 5,100 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 4, 7 and 8. The existing dwelling was built in 1953. Exh. 7.
2. The property has an angled rear property line. Exh. 2.
3. Petitioners would like to obtain a building permit for a new 5' x 8' deck with steps which extend from the right rear corner of the house, but variances are needed. Since the deck is located 1 foot from the side lot line, a variance of 6 feet side yard width was requested. Exh. 11.
4. To obtain a building permit, other existing conditions on the property must be validated. Since the existing dwelling is located only 22 feet from the front street line, a variance of 3 feet front yard depth was requested to validate the dwelling. Exh. 11.
5. In addition, since an existing shed is located only 1 foot from the side lot line, a variance of 1 foot side lot line setback for an accessory building was also requested. Exh. 11.

6. Petitioner Alexander Velasquez testified that he built the deck and steps to have a way on the right side of the property to get to his basement in the rear. Exhs. 5(A) thru (G). He explained that the slope on the right side was too high to walk down to the back yard and was leveled off and a "ramp" constructed. He stated that he removed earth to build the wooden deck and steps (*see* Exhs. 5(A) thru (G)).

7. He further testified that the left side of the property is rocky, uneven, and has a hole. He stated it is just as difficult to walk to the rear yard from that side.

8. Walter and Cathy Stanley, the next door neighbors on the right side next to the deck, opposed the request. They stated that the deck is so close to their fence that children from Petitioners' property have stepped over into their yard from the deck, which they believe constitutes a (safety) hazard. They explained that Petitioners have a moveable fence that leans on the deck and the yard was not that steep until Petitioners removed a tree and performed excavation. They contend that there is no drop-off on the left side of Petitioners' property; otherwise, Petitioner would not be able to drive his truck to the rear from that side.

9. Petitioner Alexander Velasquez testified that work related to the slope was performed on the property in preparation for the deck.

10. The City of Seat Pleasant took no position on the request. Exh. 19.

11. The Historic Preservation Section of M-NCPPC commented that the subject property is located within 500 feet of Historic Site 72-008 (Addison Chapel and Cemetery) and that the variance request will have no effect on Historic Sites, Historic Resources or Historic Districts. Exh. 15.

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 variances do not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The Board finds that Petitioners' lot has no exceptional topography or other conditions peculiar to the property. The Board further finds that the lot is regular in its size and shape and no evidence of any extraordinary situation or uniqueness of the lot was presented.

2. Even assuming the area was sloped where the deck was constructed, it seems that the steepness of the slope on the right side was caused to some extent by excavation and tree removal conducted by Petitioners. The Board notes its concern about the extremely close proximity of the deck to the adjoining property and the potential safety danger it may cause. *See* Exhibits 5(A) thru (G).

3. The Board does not deem it necessary to consider the remaining requirement of Section 27-230.

BE IT THEREFORE RESOLVED, unanimously, that variances of 3 feet front yard depth, 6 feet side yard width and 1 foot side lot line setback for an accessory building in order to validate existing conditions and obtain a building permit for a new 5' x 8' deck with steps on the property located at Lot 12, Block C,

Gregory Estates Subdivision, being 6403 Greig Street, Capitol Heights, Prince George's County, Maryland, be and are hereby DENIED.

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 27-234 of the Prince George's County Code states:

If the Board denies an appeal involving a variance, no further appeal covering the same specific subject on the same property shall be filed within the following twelve (12) month period. If the second appeal is also denied, no other subsequent appeals covering the same specific subject on the same property shall be filed within each eighteen (18) month period following the respective denial.