

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-56-16 Jasmine Irigoyen and Luis Vasquez

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: July 13, 2016 .

CERTIFICATE OF SERVICE

This is to certify that on July 25, 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
DPIE/Inspections Division
Tantallon Citizens Association

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

Petitioners: Jasmine Irigoyen and Luis Vasquez

Appeal No.: V-56-16

Subject Property: Lot 13, Block F, Tantallon on the Potomac Subdivision, being 116 River Forest Lane,
Fort Washington, Prince George's County, Maryland

Witness: Brent O'Connell, Construction Standards Inspector, Department of Permitting,
Inspections and Enforcement ("DPIE")

Heard: June 22, 2016; Decided: July 13, 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 rear yard at least 20 feet in depth/width, and Section 27-442(c)(Table II), which prescribes that not more than 25% of the net lot area shall be covered by buildings and off-street parking. Petitioners propose to validate existing conditions and construct a garage and breezeway. Variances of 10 feet rear yard depth/width and 12.7% net lot coverage are requested.

Evidence Presented

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

1. The property was subdivided in 1963, contains 12,651.01 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 4, 9 and 10. The existing dwelling was built in 1966. Exh. 9.

2. Petitioners were issued Building Violation Notice No. 47448-2015 ("Violation Notice"), dated July 9, 2015, by the Department of Permitting, Inspection and Enforcement, requiring the required permit(s) be obtained for work done, including a carport and fence over 4 feet in height, or the work be removed. Exh. 6.

3. Petitioners would like to construct a 22' x 22' garage (over existing driveway area) and 4' x 14' covered breezeway attached to the rear of the existing dwelling, but variances are needed to obtain a building permit. Since the garage would be attached to the dwelling, it must meet main structure setback requirements. Since the garage will be 10 feet from the rear lot line, a variance of 10 feet rear yard depth/width was requested. Exh. 13.

4. In addition, since the allowed amount of net lot coverage (25%) is already exceeded by existing development on the property and the proposed construction would cause further overage, a variance of 12.7% net lot coverage was also requested. Exhs. 12 and 13.

5. Petitioner Jasmine Irigoyen testified that they removed the carport (*compare* Exh. 11(B) with Exhs. 5(A) thru (C)). She explained that they are subject to covenants which require that they have an enclosure in which to park vehicles. *See* Tantallon Land Covenants, Clause II, Paragraph 3 (Exh. 21).

6. Petitioner Luis Vasquez testified that they have lived at the property for 3 1/2 years. He stated that they obtained a permit for the fence. Exh. 8.

7. Inspector O'Connell testified that the inspector that issued the Violation Notice has retired. He stated that DPIE would not get involved with anything involving the neighborhood association.

8. Tantallon Citizens Association approved the request, with conditions as prescribed by Clause II, Paragraph 4 of the Tantallon Land Covenants: "The exterior of all structures, including garage, shall be completed in accordance with the approved plans and specifications thereof within a period of one year from the commencement of construction thereof. If construction is not commenced within six (6) months of the approval of the plans, the same shall be resubmitted for approval in accordance with paragraph 1 [of Clause II] and shall be subject to complete reconsideration by the Control Committee." Exhs. 21 and 22.

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 comply with the applicable standards set forth in Section 27-230, more specifically:

Due to the existing conditions on the property, the property having been developed in 1966, a carport having been removed from the property, development of the property being subject to covenants which require a parking enclosure on the property, the proposed garage being constructed over an existing driveway, the garage being attached to the dwelling and requiring main structure setbacks, 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 variances of 10 feet rear yard depth/width and 12.7% net lot coverage in order to validate existing conditions and construct a 22' x 22' garage and 4' x 14' covered breezeway on the property located at Lot 13, Block F, Tantallon on the Potomac Subdivision, being 116 River Forest Lane, Fort Washington, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 2, and the approved elevation plan, Exhibit 3.

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.