

*NOTICE OF FINAL DECISION*  
*OF BOARD OF APPEALS*

RE: Case No. V-31-17 Yesenia Cruz

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: May 24, 2017.

**CERTIFICATE OF SERVICE**

This is to certify that on July 20, 2017, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)  
Barbara J. Stone  
Administrator

cc: Petitioner  
Adjoining Property Owners  
M-NCPCC, Permit Review Section  
DPIE/Building Code Official, Permitting  
DPIE/Inspections Division  
Barnaby Manor Citizens' Association  
Mark Maier, Spanish Language Interpreter

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

Petitioner: Yesenia Cruz

Appeal No.: V-31-17

Subject Property: Lot 23, Block B, Re-subdivision of Barnaby Village Subdivision, being 1810 Clayton Drive, Oxon Hill, Prince George's County, Maryland

Witnesses: Franklin Cruz (Son)

Misael Melgar (Husband)

Heard: May 3, 2017 and Decided: May 24, 2017

Board Members Present and Voting: 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, Petitioner requests that the Board approve variances from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a side yard at least 8 feet in 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. Petitioner proposes to validate existing conditions and obtain a building permit for a new covered deck and covered patio. Variances of 6.5 feet side yard width and 1.7% net lot coverage are requested.

**Evidence Presented**

1. The property was subdivided in 1957, contains 12,617 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 2, 3, 4, 9 and 22.

2. Petitioner would like to obtain a building permit for a 13' x 16' covered deck and 13' x 22' covered patio on the rear of the existing dwelling. The dwelling and covered deck are located 1.5 feet from the side lot line and the existing development exceeds the amount of lot coverage allowed. Variances of 6.5 feet side yard width and 1.5% net lot coverage were requested. Exhs. 2, 3, 5 (A) thru (D), 11 (A) thru (F) and 22.

3. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued Building Violation Notice No. 8464-2017-0, dated February 10, 2017, requiring Petitioner to obtain the required permit(s) for work done or remove. Work included but was not limited to an overhang addition to the house. Exh. 6.

4. Mr. Masael Melgar testified that the cover or roof was built over the existing deck and patio to stop water from running into the basement. He explained that gutters carry the water on the subject property and water is not flowing to the neighbor's property. He noted that since building the cover/roof water has stopped leaking into the basement, resolving the water issue. Exhs. 2, 3, 5 (A) thru (D), 11 (A) thru (F) 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 variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to rain water leaking into the basement at the rear of the house, the addition of the roof over the patio and deck resolving the water issue 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 owner of the property.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Bobbie Mack absent, that variances of 6.5 feet side yard width and 1.7% net lot coverage to validate existing conditions and obtain a building permit for a new 13' x 16' covered deck and 13' x 22' covered patio on the property located at Lot 23, Block B, Re-subdivision of Barnaby Village Subdivision, being 1810 Clayton Drive, Oxon Hill, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 22 and 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.