

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-45-17 Jose and Viviana 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: June 21, 2017.

CERTIFICATE OF SERVICE

This is to certify that on August 2, 2017, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)
Barbara J. Stone
Acting Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPCC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Inspections Division

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

Petitioners: Jose and Viviana Vasquez

Appeal No.: V-45-17

Subject Property: Lot 19, Block P, Palmer Park Subdivision, being 2000 Barlowe Place, Hyattsville,
Prince George's County, Maryland

Witness: Jorge Parra, Contractor
Julius Dorn, Jr., Neighbor

Heard: June 7, 2017; Decided: June 21, 2017

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(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking; Section 27-442(i)(Table VIII), which prescribes that not more than 25% of the rear yard shall be covered by accessory buildings; 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 shed and to complete construction of a covered patio. Variances of 21.1% net lot coverage, 1.6% rear yard coverage, 2 feet right side lot line setback for one accessory building and 2 feet left side lot line setback for a second accessory building are requested.

Evidence Presented

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

1. The property was subdivided in 1951, contains 3,850 square feet, is zoned R-35 (One-Family Semi-Detached Residential) and is improved with a semi-detached single-family dwelling, driveway and two sheds. Exhibit (Exhs.) 2, 3, 4, 5 (A) thru (H), 9 and 22.

2. Petitioners would like to obtain a building permit to complete construction of the roof over an existing 16.41' x 23.83' patio at the rear of the existing dwelling. Since the existing development currently exceeds the amount of lot coverage allowed, construction of a covered patio would be further overage. A variance of 21.1% net lot coverage was requested. Exhs. 2 and 22.

3. A small shed (6.25' x 7.83') is located along the right-side lot line and a second shed (11' x 25') is located along the left side lot line, the construction of which exceeds the amount of yard coverage allowed. Variances of 1.6% rear yard coverage, 2 feet right side lot line setback for one accessory building and 2 feet left side lot line setback for a second accessory building were requested. Exhs. 2, 5 (A) thru (H), 11 (A) thru (F).

4. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued Building Violation Notice No. 12537-17-0, dated February 24, 2017, requiring Petitioners to obtain the required

permit(s) for work done at the property or remove. Work includes but not limited to construction of a rear covered porch and installation of a shed larger than 150 square feet. Exh. 7.

5. Vivian Vasquez explained that the patio was being enclosed because her son and daughter-in-law both suffer from numerous medical conditions and to protect from mosquitoes. Exhs. 2 and 21.

6. Mr. Dorn, who owns the adjoining duplex testified that he did not oppose the Petitioner building the roof over the patio, but believes the downspouts on the roof were too small to handle all the water causing water overflow into his yard. He also opined that the existing A-frame roof should have been a sloped roof towards Petitioners' back yard to manage water problem. Exhs. 2 and 11 (A) thru (F).

7. Contractor Jorge Parra agreed to (a) increase the size of the gutters and (b) redesign and rebuild the roof from an A-frame to sloped roof, as Mr. Dorn suggested.

8. The alignment of the rear deck roof will match the front patio roof. Exh. 21.

9. The Board approved a variance for front yard depth in 2001 (Appeal No. V-13-01) to allow construction of a covered front porch.

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

Due to the Petitioner's son and daughter-in-law's medical conditions, the need to create a safe and protected outdoor area for them, the agreement to enlarge gutters and redesign the roof to redirect water flow 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, by majority vote, Mr. Al Scott abstaining, that variances of 21.1% net lot coverage, 1.6% rear yard coverage, 2 feet right side lot line setback for one accessory building and 2 feet left side lot line setback for a second accessory building in order to validate existing conditions and obtain a building permit for an 11' x 25' shed and to complete construction of a 16.41' x 23.83' covered patio on the property located at Lot 19, Block P, Palmer Park Subdivision, being 2000 Barlowe Place, Hyattsville, 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 approved revised elevation plan, Exhibit 22.

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.