

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

Petitioner: Santos Barahona

Appeal No.: V-105-19

Subject Property: Lot 1, Block 1, Miller Estates Subdivision, being 1403 Torrey Place, Hyattsville,  
Prince George's County, Maryland

Spanish Language Interpreter Services Provided: Ernesto Luna

Heard and Decided: November 6, 2019

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, Petitioner requests 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 accessory buildings shall be set back 2 feet from any side or rear lot line. Petitioner proposes to validate existing conditions (dwelling & development) and obtain a building permit for unauthorized shed, breezeway, enclosed deck, and a proposed 6-foot vinyl fence. Variances of 13.2% net lot coverage, 1-foot side lot line setback and 1.5 feet rear lot line setback, for an accessory building are requested.

**Evidence Presented**

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

1. The property was subdivided in 1955, contains 5,500 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway, shed, breezeway, enclosed deck, and a proposed a 6-foot vinyl fence. Exhibits (Exhs.) 2, 4, 10, 11 and 12 (A) thru (G).
2. Petitioner Santos Barahona would like to validate existing construction and install a 6-foot vinyl fence. To obtain the building permits, variances of 13.2% net lot coverage, 1-foot side yard width and 1.5 feet rear yard depth for the accessory building is requested. Exhs. 2, 3, 5 (A) thru (K)
3. On June 19, 2019, the Department of Permitting, Inspections and Enforcement issued Violation Notice # 27673-19 to obtain the required permits for work performed or remove the same. The work includes, but was not limited to, the fence extension, multiple sheds, and deck enclosure. Exhs. 6, 7 and 8.
4. Petitioner testified that he has lived at the property for 9 years. He constructed the 2-foot sidewalk because of water coming into the basement when it rains. He explained that the sidewalk was constructed two months ago from the driveway to the entrance of the basement to stop water from seeping into the structure. The shed was built in the rear yard with a breezeway next to the shed and the enclosed deck was attached to the rear of the house because of the water issue. He further stated that there are gutters on the shed and the breezeway channeling the water to flow to the back yard and the street. Mr. Barahona further testified that he extended the fence to protect his children. Exhs. 2, 3, 5 (A) thru (K)

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 water entering the basement of the dwelling when it rains, adding the covered deck, sidewalk would seal the foundation, the need for protection of children 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, unanimously, that variances of 13.2% net lot coverage, 1 foot side lot line setback and 1.5 feet rear lot line setback, for an accessory building in order to validate existing conditions (dwelling and development) and obtain a building permit for unauthorized shed, breezeway, enclosed deck, and a proposed 6-foot vinyl fence on the property located at 1403 Torrey 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 elevation plan, Exhibit 3.

## BOARD OF ZONING APPEALS

By: \_\_\_\_\_

ORIGINAL SIGNED)

Bobbie S. Mack, Chairperson

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**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.