

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

Petitioner: Roxana Vasquez

Appeal No.: V-107-19

Subject Property: Lot 6, Block 1, Miller Estates subdivision, being 1411 Torrey Place, Hyattsville,
Prince George's County, Maryland

Witness: Karla Barrera, Family Member

Spanish Language Interpreter: Ruben Sotogomez

Heard and Decided: November 20, 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 a variance 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) which prescribes that each lot shall have a side yard at least 8 feet in width. 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. Petitioner proposes to obtain a building permit for unauthorized construction of a wooden deck. Variances of 8 feet side yard width and 2.2% net lot coverage are requested.

Evidence Presented

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 and shed. Exhibits (Exhs.) 2, 4, 11, 12 and 13 (A) thru (F).

2. Petitioner would like to validate the construction of an unauthorized deck in the rear of the dwelling. Because the deck is located along the left side property's line, a variance of 8 feet side yard setback is requested. Because the existing development and the construction of the proposed deck exceeds the maximum allowable net lot coverage, a request to validate the overage of net lot coverage is also requested. Exhs. 2, 3(a) thru (d) 5 (A) thru (F) and 21.

3. The Department of Permitting, Inspections and Enforcement issued Notice of Violation #30096-2017-0, dated June 10, 2017, to Petitioner. In addition, door tags notices were placed on the subject property on January 8, 2019 and August 15, 2019, respectively. The Corrective Action required Petitioner to obtain required permits for the work done or remove the same. Work includes but was not limited to, the new deck and overhang. Exhs. 6, 7 and 8.

4. Karla Barrera explained that water is leaking into the rear yard area which is always wet and muddy being much worse when it rains. She stated that because the yard is water saturated all the time, the backyard is unusable. She further stated that because the Petitioner's daughter has asthma, outside playing in the yard is not possible. She stated the deck will allow some outside play on a dry surface. She added that the deck will also provide dry access to the shed. Exhs. 2, 3(a) thru (d) 5 (A) thru (F) and 21.

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 the backyard topography making it constantly wet and the backyard unusable, a dry area in which the child to play is desired, a dry access to the shed is also desired 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 8 feet side yard width and 2.2% net lot coverage in order to obtain a building permit for unauthorized construction of a wooden deck on the property located at 1411 Torrey Place, Hyattsville, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exh. 2 and approved elevation plans, Exhs. 3 (a) thru (d) and 21.

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.