



THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

COUNTY ADMINISTRATION BUILDING, UPPER MARLBORO, MARYLAND 20772
TELEPHONE (301) 952-3220

NOTICE OF FINAL DECISION


OF BOARD OF APPEALS

RE: Case No. V-120-19 Jose Franco and Maritza Medina

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: December 4, 2019.

CERTIFICATE OF SERVICE

This is to certify that on December 31, 2019, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.


Barbara J. Stone
Administrator

cc: Petitioner
Adjoining Property Owners
Park and Planning Commission
DPIE/Building Code Official, Permitting

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

Petitioners: Jose Franco and Maritza Medina

Appeal No.: V-120-19

Subject Property: Lots 39 & 40, Block N, Beltsville Heights Subdivision, being 4821 Lexington Avenue,
Beltsville, Prince George's County, Maryland

Witnesses: Brian Medina, Son

Kenneth Harrison, Inspector, Department of Permitting, Inspections and Enforcement (DPIE)

Heard and Decided: December 4, 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, Petitioners request that the Board approve a variance from Section 27-442(d)(Table III) which prescribes that each lot shall have a minimum width of 50 feet measured along the front building line. Section 27-442(e)(Table IV) which prescribes that each lot shall have a side yard at least 8 feet in width. Petitioners propose to validate existing conditions (property and dwelling) and obtain a building permit for unauthorized constructions of a partially covered deck, retaining wall, backyard patio and driveway extension. Variances of 10 feet front building line width and 7 feet side yard width are requested.

Evidence Presented

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

1. The property was subdivided in 1920, contains 5,040 square feet, is zoned R-55 (One-Family Detached Residential), and is improved with a single-family dwelling, driveway, partially covered deck, retaining wall, backyard patio and driveway extension. Exhibits (Exhs.) 2, 3, 10, 11, 12 and 13 (A) thru (F).
2. The lot is shaped as a long and narrow rectangle. The width of the property is only 40 feet with the length being 126 feet. Exhs. 2, 3, 10, 11, 12 and 13 (A) thru (F).
3. Petitioners are requesting to validate existing structures which existed prior to purchase of the property. Because the property was subdivided in 1920, the current front building line (40 feet) does not meet current requirements, therefore, a variance of 10 feet front building line width is requested. In addition, because the dwelling was constructed in 1969, the side yard setback does not meet current code, a side yard setback of 7-feet is requested. Exhs. 2, 3, 10, 11, 12 and 13 (A) thru (F).
4. On October 17, 2018, the Department of Permitting, Inspection and Enforcement issued a Correction Order and Door tag, advising Petitioners that building permits for the existing deck, 8-foot fence, driveway extension, patio and retaining wall must be obtained prior to new construction. On August 20, 2019, Petitioners received a second door tag. Exhs. 6, 7 and 8.
5. Brian Medina, Petitioners' son, explained that validation of development existing prior to purchase of the subject property in 2014 is warranted. He stated that the driveway extension was put down

by Petitioners as a concrete walkway but is being removed because the county inspector advised that without a buffer between the sidewalk and driveway, the walkway constituted a driveway extension. Exhs. 2, 4 (A) thru (D), and 5 (A) thru (G).

6. Inspector Harrison, DPIE, likewise stated that the concrete area or "sidewalk" next to the driveway is considered a driveway extension. He opined that the 8-foot fence may be on the Petitioners' property, but a survey should be conducted to determine the accurate property line (and the correct location of the fence). He further advised that once the survey is completed and if the outcome is that the fence is not on the subject property, that violation will be removed from the corrective order. Exhs. 2 and 6.

7. Petitioner Maritza Medina testified that the fence does not belong to them; it belongs to the neighbor on Lot 36. Exhs. 2, 4 (A) thru (D), and 5 (A) thru (G).

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

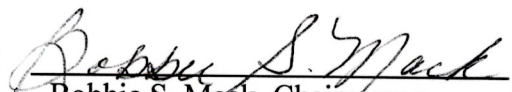
After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the property being subdivided in 1920 being narrow in the front, the existing dwelling being constructed in 1969 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 front building line width and 7 feet side yard width in order to validate existing conditions (property and dwelling) and obtain a building permit for unauthorized constructions of a partially covered deck, retaining wall, backyard patio and driveway extension on the property located at 4821 Lexington Avenue, Beltsville, 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.

BOARD OF ZONING APPEALS

By:


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:

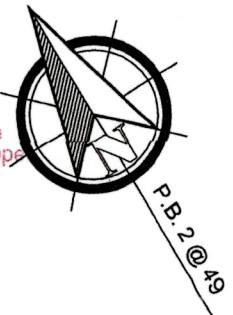
A decision of the Board, permitting the erection of a building or structure, shall not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision and the permit.

Approved for Soils, Grading
and Drainage

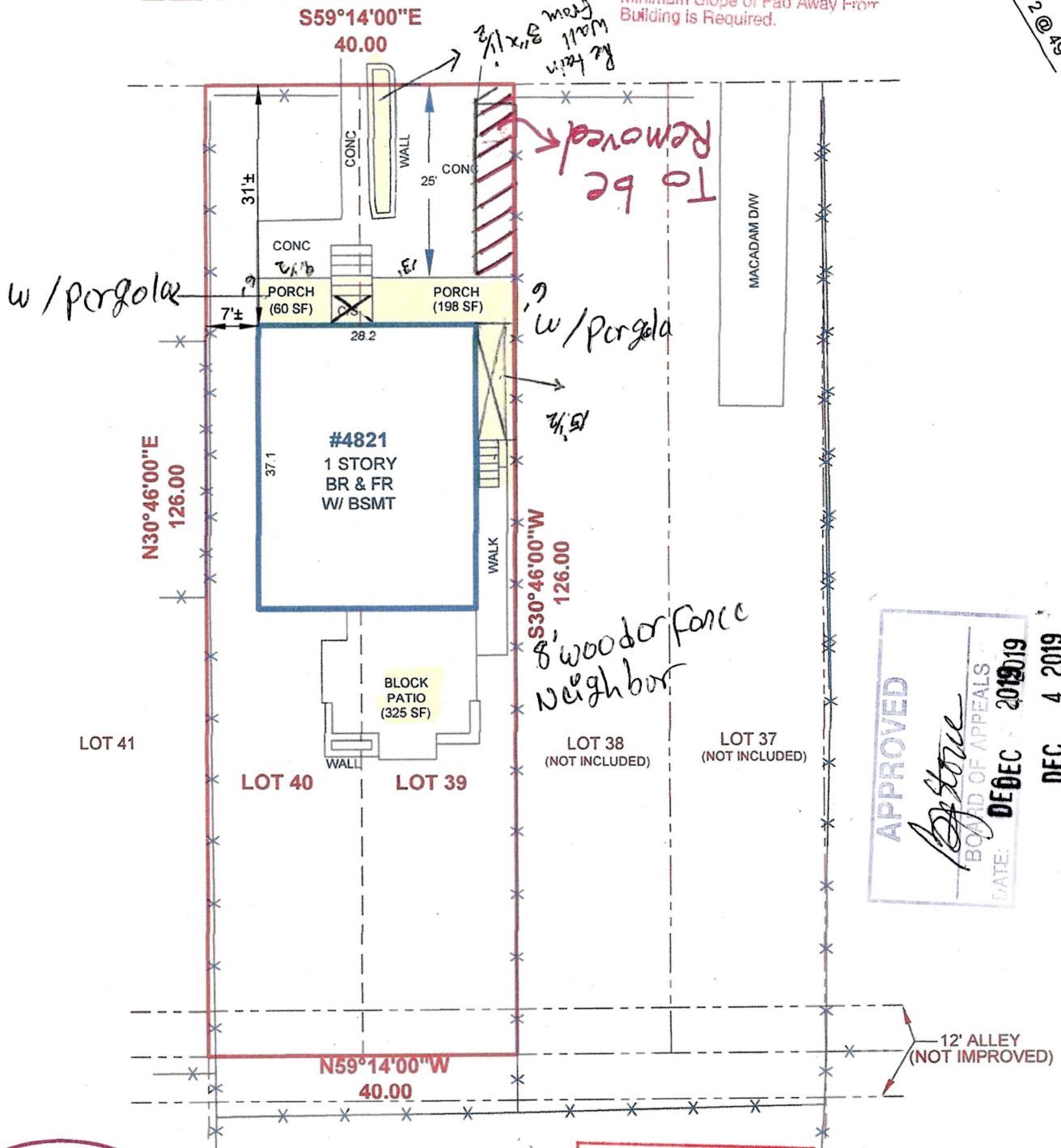
By: M.A.A 8/27/19
Date

Permit #: 52105 2018

- 3:1 Maximum Slope Allowed On Residential Property
- 7% Maximum Parking Pad Slope and 12.5% Maximum Driveway Slope
- 2.5% Minimum Slope Required On Yard or Lawn Areas. 10' in 10' Minimum Slope of Pad Away From Building is Required.



LEXINGTON AVENUE



NOTE:
ENCROACHMENTS
MAY EXIST

EXH. # 2
V-120-19

THE LEVEL OF ACCURACY OF
DISTANCES TO APPARENT
PROPERTY LINES IS: 1±

LOCATION DRAWING OF:

**#4821 LEXINGTON AVENUE
LOTS 39 & 40**

BLOCK N

BELTSVILLE HEIGHTS

PLAT BOOK 2, PAGE 49

PRINCE GEORGE'S COUNTY, MARYLAND

SCALE: 1"=20' DATE: 03-07-2019

DRAWN BY: CP/AP FILE #: 191573-200

LEGEND:

- FENCE
- B/E - BASEMENT ENTRANCE
- BAW - BAY WINDOW
- BR - BRICK
- BRL - BLDG. RESTRICTION LINE
- BSMT - BASEMENT
- C/S - CONCRETE STOOP
- CONC - CONCRETE
- DW - DRIVEWAY
- EX - EXISTING
- FR - FRAME
- MAG - MACADAM
- G - GATE
- O/H - OVERHANG
- PUE - PUBLIC UTILITY ESMT.
- PIE - PUBLIC IMPROVEMENT ESMT.

COLOR KEY:

- (RED) - RECORD INFORMATION
- (BLUE) - IMPROVEMENTS
- (GREEN) - ESMTS & RESTRICTION LINES

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SURVEYOR'S CERTIFICATE

I HEREBY STATE THAT I WAS IN RESPONSIBLE CHARGE OVER THE PREPARATION OF THIS DRAWING AND THE SURVEY WORK REFLECTED HEREIN AND IT IS IN COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN REGULATION 12 CHAPTER 09.13.06 OF THE CODE OF MARYLAND ANNOTATED REGULATIONS. THIS SURVEY IS NOT TO BE USED OR RELIED UPON FOR THE ESTABLISHMENT OF FENCES, BUILDING, OR OTHER IMPROVEMENTS. THIS PLAT DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES, BUT SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR SECURING FINANCING OR REFINANCING. THIS PLAT IS OF BENEFIT TO A CONSUMER ONLY INsofar AS IT IS REQUIRED BY A LENDER OR A TITLE INSURANCE COMPANY OR ITS AGENTS IN CONNECTION WITH THE CONTEMPLATED TRANSFER, FINANCING OR REFINANCING. NO TITLE REPORT WAS FURNISHED TO NOR DONE BY THIS COMPANY. SAID PROPERTY SUBJECT TO ALL NOTES, RESTRICTIONS AND EASEMENTS OF RECORD. BUILDING RESTRICTION LINES AND EASEMENTS MAY NOT BE SHOWN ON THIS SURVEY. IMPROVEMENTS WHICH IN THE SURVEYOR'S OPINION APPEAR TO BE IN A STATE OF DISREPAIR OR MAY BE CONSIDERED "TEMPORARY" MAY NOT BE SHOWN. IF IT APPEARS ENCROACHMENTS MAY EXIST, A BOUNDARY SURVEY IS RECOMMENDED.

DULEY & ASSOC.

WILL GIVE YOU A 100%
FULL CREDIT TOWARDS
UPGRADING THIS
SURVEY TO A
"BOUNDARY/STAKE"
SURVEY FOR ONE
YEAR FROM THE DATE
OF THIS SURVEY.

(EXCLUDING D.C. & BALT. CITY)

