



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-148-19 Gabriel and Ana Rodriguez

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: February 5, 2020.

CERTIFICATE OF SERVICE

This is to certify that on August 31, 2020, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

A handwritten signature in black ink, appearing to read "Barbara J. Stone".

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: Gabriel and Ana Rodriguez

Appeal No.: V-148-19

Subject Property: Lot 5, Block D, Calverton Subdivision, being 13115 Greenmount Avenue, Beltsville, Prince George's County, Maryland

Witness: Kenneth Parsons, Architect

Kenneth Harrison, Department of Permitting, Inspection and Enforcement, Inspector

Heard: January 22, 2020; Decided: February 5, 2020

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(c)(Table II), which prescribes that not more than 25% of the net lot area shall be covered by buildings and off-street parking. Petitioners propose to validate an existing condition (lot coverage) and obtain a building permit for the unauthorized construction of a covered porch and driveway extension. A variance of 11% net lot coverage is requested.

Evidence Presented

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

1. The property was subdivided in 1961, contains 10,000 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Petitioner has further performed unauthorized construction of a covered porch and driveway extension. Exhibits (Exhs.) 2, 4, 9, 10 and 11 (A) thru (F).
2. The property is on a slope and requires retaining walls in the front for drainage. Exhs. 5 (A) thru (L).
3. Petitioner is requesting to validate the unauthorized construction of which has resulted in an overage of net lot coverage. Therefore, a variance of 11% net lot coverage is requested. Exhs. 2, 3 and 5 (A) thru (L).
4. Mr. Kenneth Parsons explained that the Petitioner received a stop work order on September 11, 2019, when in the process of constructing a roof over a concrete slab. The existing roof cover was inspected by an engineer to certify that it was built correctly, although, the County engineers required more structurally sound version. Regarding the shed, which has existed for 30-40 years, is in disrepair and will be removed. Exhs. 2, 3 and 5 (A) thru (L).
5. Mr. Parsons stated that the driveway was existing, but Mr. Rodriguez did apply a more millings. One of the problems that was brought to his attention was that the concrete slab and the driveway are on the same level and would or could be counted as drivable area. The County requested that some form of barrier be placed between the driveway and the concrete slab (patio area). Exhs. 2, 3 and 5 (A) thru (L).

6. The roof over the patio was put in for the children to play out of the weather and provide an area for seating. 2, 3 and 5 (A) thru (L).

7. Inspector Harrison stated that the concrete driveway stops at the front of the house, but more millings were added that extended the length. Petitioner also widened the driveway, therefore a permit is required for the extension of the driveway. In the back, the patio is level with driveway, therefore, you could possibly park or drive onto the patio, a buffer must be placed between the patio and driveway. In regard to the retaining wall in the front, he is not sure if there is rebar there, so an engineer must certify the walls. 2, 3 and 5 (A) thru (L).

8. Mr. Parsons stated that he had several suggestions from the County regarding the buffer.¹ It was determined that a 20" wall will be constructed to go around the 3 sides and a 2-foot portion of gravel will be removed for grass and flowers between the driveway and patio. 2, 3, 5 (A) thru (L) and 19.

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

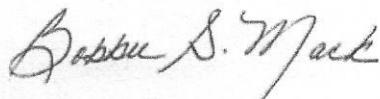
After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variances complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the topography of the front yard, existing conditions on the property, the need for an area for children to play out of the weather, the need to provide a seating area 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 a variance of 11% net lot coverage in order to validate an existing condition (lot coverage) and obtain a building permit for the unauthorized construction of a covered porch and driveway extension on the property located at 13115 Greenmount Avenue, Beltsville, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved revised site plan, Exhibit 19 and approved elevation plan, Exhibit 3.

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By:



Bobbie S. Mack, Chairperson

¹ A revised site plan was submitted in order to demonstrate the barrier between the driveway and patio. The barrier is a 20" wall divider which can be used for seating and a grass and planter area. Exh. 19.

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:

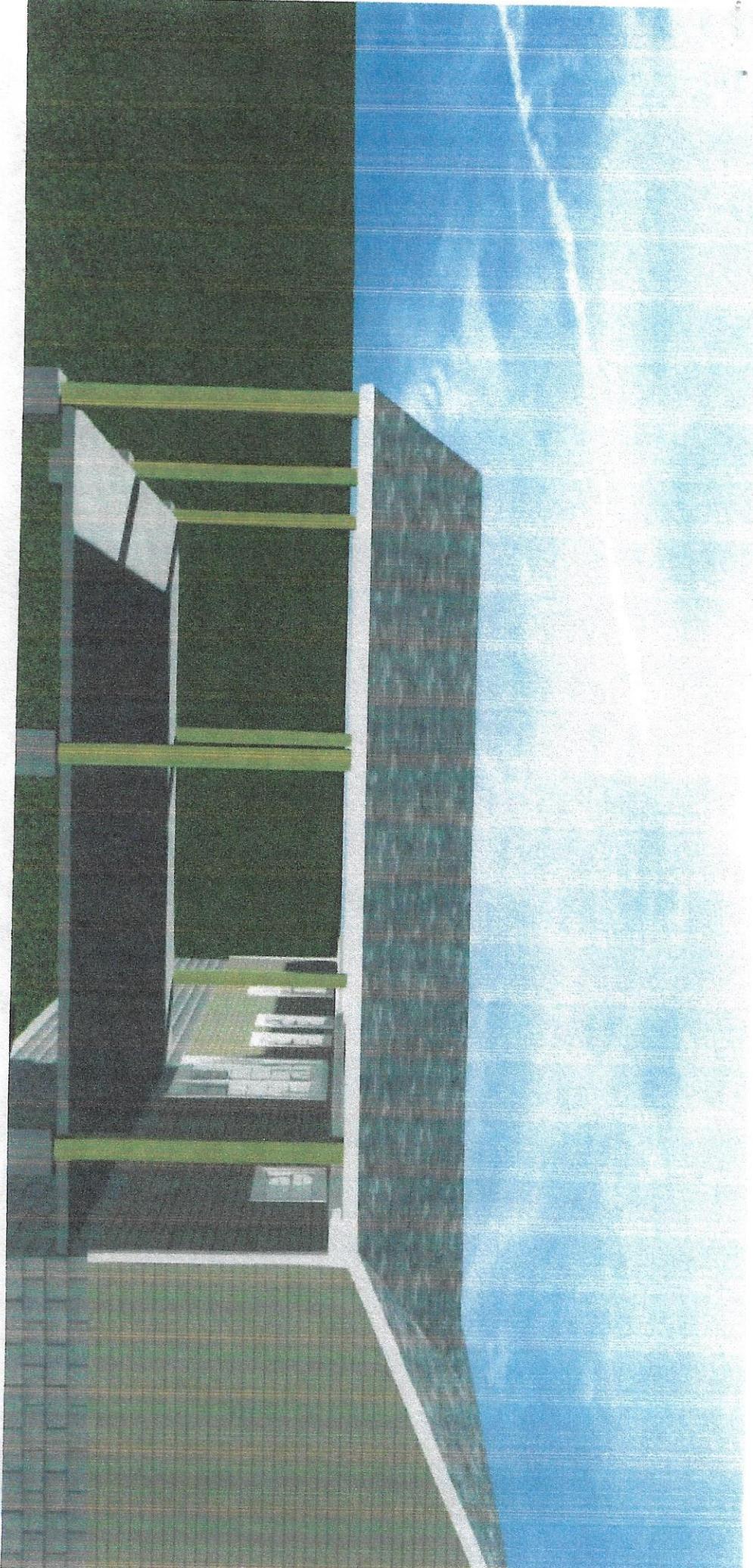
A decision of the Board, permitting the erection of a building or structure, shall not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision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

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APPROVED FEB 05 2020

John H. Fine
ADMINISTRATOR

EXH. # 3
V-148-19





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APPROVED FEB 05 2020

John Doe
ADMINISTRATOR