

*NOTICE OF FINAL DECISION*


*OF BOARD OF APPEALS*

RE: Case No. V-36-08 Sergio & Stephanie Perez

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 18, 2008 .

**CERTIFICATE OF SERVICE**

This is to certify that on June 26, 2008 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

  
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Anne F. Carter  
Administrator

cc: Petitioner  
Adjoining Property Owners  
DER, Building Code Official, Permit & Review Div.  
M-NCPPC, Permit Review Section  
Rose Valley Cluster HOA

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

Petitioners: Sergio & Stephanie Perez

Appeal No.: V-36-08

Subject Property: Lot 24, Rose Valley Subdivision, being 10220 Glen Way, Fort Washington,  
Prince George's County, Maryland

Heard: May 7, 2008; Decided: June 18, 2008

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, Petitioners request that the Board approve a variance from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a rear yard at least 20 feet in depth/width. Petitioners propose to construct a deck. A variance of 11 feet rear yard depth/width is requested.

Evidence Presented

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

1. The property was subdivided in 2003, contains 10,830 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling and driveway. The existing house was built in 2006. Although the property is located in Aviation Policy Area 6, the request does not encroach upon those requirements. See Exhibits 2, 13, 4 & 6.
2. The property, which is located within an approved cluster subdivision, is an odd-shaped lot located on a cul-de-sac (Exhibits 2 & 4).
3. Petitioners would like to construct a 12' x 26' deck, with 8' x 16' landing and steps, on the second story of the rear of the existing dwelling. Since the deck would be located 9 feet from the rear lot line at the closest point, a variance of 11 feet rear yard depth/width was requested.
4. Petitioner Sergio Perez testified that there is an existing sliding door on the rear of the house that is currently blocked by a railing. He stated that construction of the deck will provide an additional fire exit from the house. See Exhibit 5.
5. Mr. Perez further testified that when they purchased their house, the builder offered a deck as an option, but they could not afford it at that time. He stated that there are several houses on his side of the street that have decks, including one house on his cul-de-sac.
6. Mr. Perez stated that his property backs up to wooded area and an airport.
7. Rose Valley Cluster Homeowners Association approved the request (Exhibit 15).

8. The Subdivision Section of the Maryland-National Capital Park and Planning Commission reviewed the request with regard to the description of the property contained on the record plat of subdivision for Rose Valley Cluster (REP 196 @ 66 – Lot 24). The Subdivision Section stated that the proposed development and requested variance are not in conflict with the record plat or the Plan of Development as approved under Cluster Preliminary Plat 4-94129, if the proposed development meets the definition contained in Section 27-107.01(a) (117.1) of the Zoning Ordinance. See Exhibit 11.

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 unusual shape of the lot, the property being located on a cul-de-sac, the property backing up to wooded area and an airport, the proposed deck providing an additional fire exit from the house, 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 feet rear yard depth/width in order to construct a deck on the property located at Lot 24, Rose Valley Subdivision, being 10220 Glen Way, Fort Washington, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved revised site plan, Exhibit 13, and the approved elevation plan, Exhibit 3.

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.