

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

OSCAR & ELENA VIGANO, VC 2015-BR-007 Appl. under Sect(s). 18-401 of the Zoning Ordinance to permit greater than 30% rear yard coverage. Located at 5603 Wood Thrush Ct., Fairfax, 22032, on approx. 7,518 sq. ft. of land zoned PDH-3. Braddock District. Tax Map 77-1 ((12)) 161. (Concurrent with SP 2015-BR-061.) Mr. Beard moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 21, 2015, and

WHEREAS, the Board has made the following findings of fact:

1. The applicants for this variance are Oscar and Elena Vigano.
2. The applicants are the owners of the land.
3. This is a unique piece of property, and this is basically a topography issue. This is a pie-shaped property. This is a de minimis request, at less than 40 square feet, which amounts to about 32 percent coverage, as opposed to the 30 percent allowed.
4. There is a favorable staff recommendation.
5. This application meets all of the following required standards for variances as set forth in Sections 15.2-2201 and 15.2-2309 of the Code of Virginia:
 - a. The subject property requires a reasonable deviation from those provisions of the Zoning Ordinance, regulating the shape, size, or area of a lot or parcel of land, or the size, height, area, bulk, or location of a building or structure as the strict application of the Ordinance would unreasonably restrict the utilization of the property, such need for a variance would not be shared generally by other properties, such variance is not contrary to the purpose of the Ordinance, and this variance does not include a change in use. The property satisfies the criteria, because it's a pie-shaped lot, with the back side chopped off at an angle, making one corner of the house have a much more shallow rear yard. This makes it very difficult to put any addition on the back of the house on that side, because of a reduced area available for a patio.
 - b. The strict application of the Zoning Ordinance would unreasonably restrict the utilization of the property, and the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the Zoning Ordinance.
 - c. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant.

- d. The variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.
- e. The condition or situation of the property that created the need for this variance is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Zoning Ordinance.
- f. The granting of this variance does not result in a use that is not otherwise permitted on the subject property or a change in the zoning classification of the property.
- g. The relief or the remedy sought by this variance application is not available through a special permit process that is authorized in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following conditions:

1. This variance is approved for rear yard coverage greater than 30 percent as shown on the plat titled, "Special Permit Plat, Lot 161, Section Five, Fairfax Club Estates," prepared by Timothy J. Farrell, L.S., dated December 19, 2014 as revised through June 23, 2015, as submitted with this application and is not transferable to other land.

This approval, contingent upon the above-noted conditions, shall not relieve the applicants from compliance with the provisions of any applicable ordinances, regulations or adopted standards including requirements for building permits.

Mr. Hart seconded the motion, which carried by a vote of 5-0. Ms. Theodore and Mr. Byers were absent from the meeting.

A Copy Teste:



Lorraine A. Giovinazzo
Clerk of the Board of Zoning Appeals