

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

MARIANO C. EVANGELISTA JR., VC 2015-MA-001 Appl. under Sect(s). 18-401 of the Zoning Ordinance to permit greater than 30% of front yard coverage, and greater than 30% rear yard coverage. Located at 7208 Westmoreland Rd., Falls Church, 22042, on approx. 11,520 of land zoned R-4. Mason District. Tax Map 50-3 ((4)) 194. (Concurrent with SP 2015-MA-010.) September 16, 2015, Ms. Theodore 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 September 16, 2015; and

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

1. The applicant for this variance is Mariano C. Evangelista Jr.
2. The applicant is the owner of the land.
3. The staff recommends approval of the request for a variance for rear yard coverage in excess of 30 percent and denial of the front yard coverage greater than 30 percent, and the Board concurs with their discussion in the staff report.
4. With respect to the rear yard coverage greater than 30 percent, 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. Under this provision with respect to the rear yard, the property and location of the house limits the usable area available in the rear yard.
 - 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. The square footage in the backyard is limited, and the utilization of the property is limited under the Zoning Ordinance, and therefore, adequate relief should be provided under this provision.
 - 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.

The applicant has acquired the property in good faith based on the information contain in the applicant's statement of justification. The placement of the house on the lot, and the designation of the lot as a corner lot restricts the amount of the useable rear yard.

- d. The variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area. As discussed, the placement of the house is also factor in addressing this item.
 - 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. The placement of the home would also dictate granting such relief.
 - 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. The variance application is the only mechanism that is available to provide the relief requested for coverage for both front and rear yards.
5. With respect to the front yard denial, there is the ability for the applicant to modify the coverage of the driveway given that there is some portion of the 30 percent coverage that is asphalt and gravel. Staff is recommending that portion of the variance be denied, and the Board agrees with their recommendation. The subject property does not require a reasonable deviation, and adequate utilization of the property is not unreasonably restricted.

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

1. This variance is approved for the rear yard coverage greater than 30 percent as shown on the plat titled, "Special Permit Plat, Lot 194, Section 4, Woodley," prepared by Michael L. Flynn, L.S., dated February 27, 2014 as revised through November 18, 2014, 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. Beard seconded the motion, which carried by a vote of 5-0. Mr. Hart was not present for the vote and Mr. Hammack was absent from the meeting.

A Copy Teste:

A handwritten signature in cursive script, reading "Mary D. Padrutt". The signature is written in dark ink and is positioned above a horizontal line.

Mary D. Padrutt, Deputy Clerk
Board of Zoning Appeals