

IN RE: APPEAL OF MIGUEL GARCIA : **BEFORE THE ZONING HEARING**
RELATIVE TO A PROPERTY LOCATED : **BOARD OF THE CITY OF READING,**
AT 1239 CHURCH STREET, CITY OF : **PENNSYLVANIA**
READING, BERKS COUNTY, :
PENNSYLVANIA : **APPEAL NO. 2018-33**
: **VARIANCE, INTERPRETATION**
: **AND/OR SPECIAL EXCEPTION**
:

DECISION OF THE ZONING HEARING
BOARD OF THE CITY OF READING

AND NOW, this 14th day of November, 2018, a hearing having been held on October 10, 2018, on the application of Miguel Garcia, notice of such hearing having been first sent and advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code and the City of Reading Zoning Ordinance, as amended, the Zoning Hearing Board of the City of Reading (hereinafter referred to as the “Zoning Board”) renders the following decision:

FINDINGS OF FACT

The Zoning Board finds the following facts:

1. The Applicant is Miguel Garcia, an adult individual who resides at 1239 Church Street, City of Reading, Berks County, Pennsylvania (hereinafter referred to as the “Applicant”).
2. Applicant is the fee simple owner of property known as 1239 Church Street, City of Reading, Berks County, Pennsylvania (hereinafter referred to as the “Subject Property”).
3. The Subject Property is located in the R-3 Zoning District as that term and district is defined by the Zoning Ordinance of the City of Reading, as amended (hereinafter referred to as the “Zoning Ordinance”).
4. Applicant seeks a dimensional variance to allow a deck which has been constructed within the side and rear yard setbacks. Zoning Ordinance Sections 600-406, 600-910 and 600-804.
5. Applicant received a permit to construct a fence at the rear of his residence.
6. While constructing the fence, Applicant also constructed a deck.

7. The deck is within two (2) feet of the rear property line and within one (1) foot of the side yard property line.

8. There is no hardship at the Subject Property.

9. Applicant may reduce the intrusion into the rear yard setback and have a usable deck.

10. The Board finds as a fact that the proposed use will be a detriment to the health, safety and welfare of the neighborhood due to potential safety issues and aesthetic issues.

11. The Board finds as a fact the proposed use is not the minimum deviation from the strict terms of the Zoning Ordinance necessary to afford relief at the Subject Property because the Subject Property can be used in accordance with the strict terms of the Zoning Ordinance.

12. The Board finds as a fact the Subject Property does not have unique physical conditions or circumstances which render it incapable of being used within the strict terms of the Zoning Ordinance.

13. There were no objections presented at the hearing.

DISCUSSION

Applicant seeks a dimensional variance to allow a deck which has been constructed within the side and rear yard setbacks. The Board finds that the proposed use is too intense for the area and will be a detriment to the health, safety and welfare of the neighborhood. In addition, the Board finds that the Subject Property is not unique and this is not the minimum variance which would be required to afford relief to use the Subject Property because the Subject Property can be used in accordance with the strict terms of the Ordinance.

CONCLUSIONS OF LAW

1. Applicant is Miguel Garcia.

2. The Subject Property is located in the R-3 Zoning District.

3. Applicant seeks relief from the relevant sections of the Zoning Ordinance to allow a deck which has been constructed within the side and rear yard setbacks at the Subject Property.

4. The Zoning Board is permitted to provide interpretation and grant applications for

variances and special exceptions as set forth in the relevant sections of the Zoning Ordinance.

5. The Zoning Board concludes as a matter of law the following:

a. The Subject Property can be used within the strict terms of the Zoning Ordinance.

b. The proposed use would alter the essential character of the neighborhood and would be detrimental to the health, safety and welfare of the neighborhood.

c. There are no unique physical circumstances and no unnecessary hardship at the Subject Property to require the grant of the requested variances.

6. Based upon all the findings of fact and conclusions of law set forth herein, the Zoning Hearing Board hereby denies the requested relief.

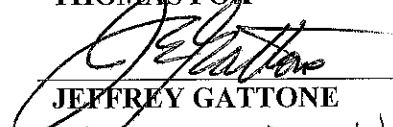
The decision of this Board is by a vote of 3 to 0.

ZONING HEARING BOARD OF THE CITY
OF READING

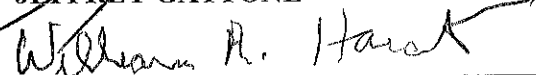


PHILIP RABENA, CHAIRMAN

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JARED BARCZ