

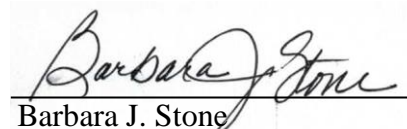
NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-178-17 Marvin Martinez and Elsa Bonilla

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: April 25, 2018 .

CERTIFICATE OF SERVICE

This is to certify that on May 21, 2018 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Barbara J. Stone
Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Inspections Division

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

Petitioners: Marvin Martinez and Elsa Bonilla

Appeal No.: V-178-17

Subject Property: Lot 7 and Part of Lot 8, Block 27, Lincoln Subdivision, being 5005 Baltimore Lane,
Lanham, Prince George's County, Maryland

Heard: January 24, 2018 & March 14, 2018; Decided: April 25, 2018

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 variances from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have two side yards totaling 17 feet in width, with the minimum width of either side yard being 8 feet; 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 and Section 27-120.01(c), which prescribes that no parking space, parking area, or parking structure other than a driveway no wider than its associated garage, carport, or other parking structure may be built in the front yard of a dwelling in the area between the front street line and the sides of the dwelling. Petitioners propose to validate existing conditions and obtain a building permit for a new shed and new driveway extensions in the front and rear yards. Variances of 1.2 feet right side yard width, 6 feet left side yard width, 24.7% net lot coverage and a waiver of the parking area location requirement are requested.

Evidence Presented

1. The property contains 8,400 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 2, 4, 12, 13, 14 (A) thru (F) and 15 (A) thru (E).
2. The property was subdivided in 1913, but was created as it exists today by deed in 1954. Exhs. 4, 6, 7 and 8.
3. Petitioners would like to obtain a building permit for a new 10' x 33' shed, new 17' x 49'8"x 9.5' driveway extension in the rear yard and new 10' x 20' driveway extension in the front yard. As the existing development on the property exceeds the amount of lot coverage allowed, and construction of the shed and additional driveway area are additional overage, a variance of 24.7% net lot coverage was requested. Exhs. 2, 3 (a) thru (b), 5 (A) thru (B), 17, 25 and 27.
4. Section 27-120.01(c) states that construction of driveways not leading to a carport or garage is not permitted in the front yard between the front street line and the sides of the dwelling. Since part of Petitioners' driveway is in this area of the front yard, a waiver of the parking area location requirement was requested. Exhs. 2, 3 (a) thru (b), 5 (A) thru (B), 17, 25 and 27.

5. The existing dwelling is located 6.8 feet from the right-side lot line and the attached carport is located 3 feet from the left side lot line. Variances of 1.2 feet right side yard width and 6 feet left side yard width to validate the existing dwelling and carport were requested. Exhs. 2, 3 (a) thru (b), 5 (A) thru (B), 17, 25 and 27.

6. The Department of Permitting, Inspections and Enforcement, Inspections Division, posted (placed notice on the front door) the property on September 14, 2017, in reference to a fence, shed and driveway. Exh. 9.

7. Petitioner Marvin Martinez testified that the driveway and shed were completed 7 years ago, and the plywood fence was built 6 months ago. Exhs. 2, 3 (a) thru (b), 5 (A) thru (B) and 25.

8. Djibril Kone, the adjoining property owner at 5007 Baltimore Lane, opposed approval of the variances and provided photographs of the fence viewed from his property. Exh. 21

9. Mr. Martinez further testified that he added concrete to the driveway to add parking spaces.¹ He stated that he currently owns 6 vehicles and Baltimore Lane does not permit on-street parking. Exhs. 2, 3 (a) thru (b), 5 (A) thru (B), 17, 25 and 27.

10. It appears there is an extension of the driveway in front of the house. Petitioner stated that "he came home one day after work, the water line people (WSSC) put a driveway in by accident. Doing work on the street they had to cut into the driveway, when he came home one day, from work, it was there."² Exhs. 2 and 25.

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 does not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The Board finds that Petitioners' lot has no exceptional topography or other conditions peculiar to the property. The Board further finds that the lot is regular in its size and shape and no evidence of any extraordinary situation or uniqueness of the lot was presented.

2. Because the conditions of the property are ordinary, the Board does not deem it necessary to consider the other requirements of Section 27-230.

3. The Board notes that Permit 43367-2014-RGUW required removal of 50 linear feet of driveway, which was not removed as well as further driveway added without the required permit.

BE IT THEREFORE RESOLVED, unanimously, that variances of 1.2 feet right side yard width, 6 feet left side yard width and 24.7% net lot coverage in order to validate existing conditions and obtain a building

¹ Permit 43367-2014-RGUW was approved for a 20.2 x 24' & 8' x 9.5' 1-story addition and 50 linear feet of the driveway to be removed. Exh. 2. (The 50 feet of driveway was not removed per the site plan submitted with this variance request.)

² Due to the additional parking area in the front of the dwelling there is an increase in lot coverage and an expanded waiver of the parking area location requirement.

permit for a new 10' x 33' shed, new 17' x 49'8" x 9.5' driveway extension in the rear yard and new 10' x 20' driveway extension in the front yard on the property located at Lot 7 and Part of Lot 8, Block 27, Lincoln Subdivision, being 5005 Baltimore Lane, Lanham, Prince George's County, Maryland, be and are hereby DENIED.

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 27-234 of the Prince George's County Code states:

If the Board denies an appeal involving a variance, no further appeal covering the same specific subject on the same property shall be filed within the following twelve (12) month period. If the second appeal is also denied, no other subsequent appeals covering the same specific subject on the same property shall be filed within each eighteen (18) month period following the respective denial.