

*NOTICE OF FINAL DECISION*

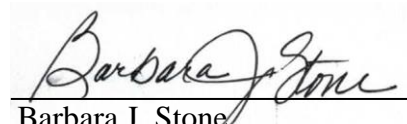
*OF BOARD OF APPEALS*

RE: Case No. V-203-17 Homero Martinez and Innely Espinal

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: March 14, 2018.

**CERTIFICATE OF SERVICE**

This is to certify that on March 28, 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  
Ernesto Luna, Spanish Language Interpreter

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

Petitioners: Homero Martinez and Inmely Espinal

Appeal No.: V-203-17

Subject Property: Lot 40, Block G, River Bend Estates Subdivision, being 8329 Bella Vista Terrace, Fort Washington, Prince George's County, Maryland

Witness: Sarah Cavitt, President, Riverbend Estates Neighborhood Association

Heard and Decided: March 14, 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(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 and obtain a building permit for a retaining wall up to 4 feet in height around back patio and driveway extension in the front yard. A variance of 1.3% net lot coverage and a waiver of the parking area location requirement are requested.

**Evidence Presented**

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

1. The property was subdivided in 1967, contains 10,673 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 2, 3, 9, 10 and 11 (A) thru (F).

2. Seven evergreen trees are located along the front right side of the subject property. Exh. 4 (C) thru (D) and 11 (A) thru (F).

3. Petitioners would like to obtain a building permit for a 9' x 63' extension to the existing driveway, part of which is in front of the dwelling, and a retaining wall up to 4 feet in height around a back patio. Construction of the new driveway exceeds the amount of lot coverage allowed. A variance of 1.3% net lot coverage was requested. Exhs. 2, 4 (A) thru (E), 5 and 14.

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, 4 (A) thru (E), 5 and 14.

5. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued a Building Violation Notice (BVN-56597-16-0) requiring Petitioners to "Obtain the required permit(s) for work done . . . or remove the same. Work includes but is not limited to expansion of concrete driveway and retaining wall/patio more than 24". Exhs. 6 and 7.

6. Ms. Sarah Cavitt, President of the River Bend Neighborhood Association (RENA), testified that RENA did not object to the expansion of the driveway. Exh. 23.

7. Mr. Martinez further stated that the expanded parking is necessary for family members. He also stated that the rear yard is steeply sloped. He explained that retaining wall on the patio side is 4 inches in height, the opposite side is 4 feet due to the steep slope of the rear yard. Exhs. 2, 4 (A) thru (E), 5 and 14.

#### 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 variances complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the topography (evergreen trees) in the front yard and the steep slope of the rear yard, the need for additional parking areas 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 1.3% net lot coverage and a waiver of the parking area location requirement to validate and obtain a building permit for a retaining wall up to 4 feet in height around back patio and 9' x 63' driveway extension in the front yard on the property located at Lot 40, Block G, River Bend Estates Subdivision, being 8329 Bella Vista Terrace, Fort Washington, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 2.

#### 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.