

*NOTICE OF FINAL DECISION*  
*OF BOARD OF APPEALS*

RE: Case No.     V-21-11 Alan & Catherine Herman    

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 6, 2011    .

**CERTIFICATE OF SERVICE**

This is to certify that on     April 27, 2011    , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)  
\_\_\_\_\_  
Anne F. Carter  
Administrator

cc:   Petitioners  
      Adjoining Property Owners  
      M-NCPPC, Permit Review Section  
      DER/Building Code Official, Permits & Review Group  
      Briarwood Homeowners Association  
      Other Interested Parties

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

Petitioners: Alan & Catherine Herman

Appeal No.: V-21-11

Subject Property: Lot 8, Block E, Briarwood Subdivision, being 8603 Briarcroft Lane, Laurel,  
Prince George's County, Maryland

Witness: Peggy Card, Tabor Design Build, Inc.

Heard and Decided: April 6, 2011

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 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 2 feet from any side lot line. Petitioners propose to validate existing conditions and obtain a permit to replace an existing concrete driveway. Variances of 10.5% net lot coverage and 2 feet side lot line setback for an accessory building are requested.

Evidence Presented

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

1. The property was subdivided in 1962, contains 10,911 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway, two sheds and in-ground swimming pool. See Exhibits ("Exhs.") 2-3, 7-8. The property was improved with a single-family dwelling in 1965. See Exh. 8.
2. The property is an odd-shaped lot, with a triangular rear yard. See Exh. 2.
3. Petitioners would like to replace the concrete in the existing 10' x 57' driveway, but variances are needed to obtain a building permit. Since the maximum allowed amount of net lot coverage is exceeded by existing development and an existing 10' x 10' shed is located on the side lot line, variances of .5% net lot coverage and 2 feet side lot line setback for an accessory building were requested. See Exh. 12.
4. The Department of Veterans Affairs ("VA") submitted a statement (see Exh. 5) on behalf of Alan Herman, who is eligible for a Specially Adapted Housing Grant from the VA to do much-needed renovations to his home. The VA stated that Mr. Herman developed ALS (amyotrophic lateral sclerosis), a very debilitating disease, due to the use of Agent Orange when Mr. Herman served during the Vietnam War, and is 100% dependent on others and his electric wheel chair for mobility and transport. The VA explained that to accommodate Mr. Herman's condition, exterior renovations are planned for the property, including construction of a wheel chair accessible ramp and replacement of a driveway and patio to accommodate the

wheel chair and meet the VA's Minimum Property Requirements ("MPR"). The VA stated that one MPR is that Mr. Herman must have safe access to and from at least two doors in the home. The contractor will be replacing the driveway and patio as the patio must be no more than one-half inch below the door jamb to accommodate a wheel chair.

5. Peggy Card, representing the builder on behalf of Petitioners, testified that Petitioners' existing driveway, which existed when they purchased the property, is in serious disrepair. See Exhs. 4(A) & (B). Ms. Card stated that the driveway is sloped, without the required 5' x 5' level spot for the turn-around and entrance of a handicapped accessible van or ambulance next to the ramp running from the front door to the driveway. She explained that Petitioners are requesting the lot coverage variance so that they may replace the existing driveway and create the required level spot. She stated that it would be an undue hardship if Mr. Herman had to be physically taken down the sloped, deteriorated driveway to a vehicle parked farther down. She believes that Briarwood Homeowners Association has been inactive for a number of years.

6. Petitioner Catherine Herman testified that their driveway leads directly into their patio area, where they never used to park, but now that her husband is in a wheel chair, it is necessary to pull onto the patio to let him out of the vehicle.

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

Due to the unusual shape of the property, the property having a triangular rear yard, the slope and the deteriorated condition of the existing driveway, the driveway leading directly into the patio, Petitioner being 100% dependent on others and his electric wheel chair for mobility and transport because of his medical condition, it being necessary to pull onto the patio to let Petitioner out of a vehicle, Petitioner being eligible for a Specially Adapted Housing Grant from the VA to do renovations, construction of a ramp and replacement of the driveway and patio being necessary to meet the VA's MPR requirements for wheel chair accessibility, 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 variances of 10.5% net lot coverage and 2 feet side lot line setback for an accessory building in order to validate existing conditions and obtain a permit to replace an existing 10' x 57' concrete driveway and patio area (approximately 840 sq. ft.) used for parking on the property located at Lot 8, Block E, Briarwood Subdivision, being 8603 Briarcroft Lane, Laurel, 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.