

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-117-16 Tina Boston

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: November 9, 2016 .

CERTIFICATE OF SERVICE

This is to certify that on November 29, 2016, 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: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Inspections Division
Town of Colmar Manor
Other Interested Parties

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

Petitioner: Tina Boston

Appeal No.: V-117-16

Subject Property: Lots 20 & 21, Block 8, Colmar Manor Subdivision, being 3410 41st Avenue, Colmar
Manor, Prince George's County, Maryland

Municipality: Town of Colmar Manor

Witnesses: William Boston

Lillie Blyther, neighbor

Heard: October 26, 2016; Decided: November 9, 2016

Board Members Present and Voting: 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, Petitioner requests that the Board approve variances from Section 27-442(b)(Table I) of the Zoning Ordinance, which prescribes that each lot shall have a minimum net lot area of 5,000 square feet; Section 27-442(d)(Table III), which prescribes that each lot shall have a minimum width of 50 feet measured along the front building line; Section 27-442(c)(Table II), which prescribes that not more than 30% 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 60 feet from the front street line, 2 feet from any side lot line and generally be located only in the rear yard. Petitioner proposes to validate existing conditions and obtain a building permit for a shed in the front yard. Variances of 1,000 square feet net lot area, 10 feet front building line width, 17.6% net lot coverage and variances of 34 feet front street line setback, 1 foot side lot line setback and a waiver of the rear yard location requirement for an accessory building are requested.

Evidence Presented

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

1. The property consists of two lots subdivided in 1918, contains 4,000 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits 2, 4, 8 and 9. The existing dwelling was built in 1941. Exh. 8.
2. The property is long and narrow, being 100 feet long and 40 feet wide. Exh. 2.
3. Violation Notice BVN 32276-2016-0, dated June 28, 2016, was issued to Petitioner by the Department of Permitting, Inspections and Enforcement, requiring that permit(s) be obtained for work done, including but not limited to a shed that does not meet the exception, or the work be removed. Exh. 6.
4. Petitioner would like to obtain a building permit for an 8' x 16' shed located in the front yard (Exh. 2), but variances are needed to obtain the permit. Since the shed is located 26 feet back from the front street line, 1 foot from the side lot line and is not located in the rear yard, variances of 34 feet front street line

setback, 1 foot side lot line setback and a waiver of the rear yard location requirement for an accessory building were requested. Exh. 12.

5. Since the allowed amount of net lot coverage (30%) is already exceeded by existing development on the property, and construction of the shed caused further overage, a variance of 17.6% net lot coverage was also requested. Exhs. 11 and 12.

6. Since the property does not meet the current minimum lot size and width requirements, variances of 1,000 square feet net lot area and 10 feet front building line width were also requested to validate these existing conditions. Exh. 12.

7. William Boston testified that the shed is necessary because the house has no basement and no attic. He further explained that when he went to get a permit he learned about the rear yard requirement for the location of the shed. He stated that the shed is attractive and not an eye sore. Exhs. 3(a) thru (d).

8. He testified that the house sits adjacent to the back fence and is the only house in the neighborhood that sits all the way to the rear. *See* Exhs. 5(D) and (E); 10(A) thru (E). He further explained that there is just enough space in the right rear corner (next to the house) to fit a picnic table, a couple chairs and a grill (Exh. 2) and if the shed were placed there, no space would remain for any privacy.

9. Lillie Blyther, who lives next to the subject property at 3408 41st Avenue, testified that the shed looks like a tiny house (Exhs. 3(a) thru (d)) and may affect the value of her property.

10. The Town of Colmar Manor took no position on the request. Exh. 20.

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 property being subdivided in 1918, the narrowness of the property, the extreme rear location of the house on the property, there being no rear yard, the house being built many years ago, existing conditions on the property, the need for additional storage space because of the lack of a basement and attic, 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 owner of the property.

BE IT THEREFORE RESOLVED, by majority vote, Chairperson Mack absent, that variances of 1,000 square feet net lot area, 10 feet front building line width, 17.6% net lot coverage and variances of 34 feet front street line setback, 1 foot side lot line setback and a waiver of the rear yard location requirement for an accessory building in order to validate existing conditions and obtain a building permit for an 8' x 16' shed in the front yard on the property located at Lots 20 & 21, Block 8, Colmar Manor Subdivision, being

3410 41st Avenue, Colmar Manor, 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, and the approved elevation plans, Exhibits 3(a) thru (d).

BOARD OF ZONING APPEALS

By: (Original Signed)
Albert C. Scott, Vice Chairman

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.