

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

Petitioner: Jaime Amaya

Appeal No.: V-63-19

Subject Property: Lots 22 and 23, Block 9, Colmar Manor Subdivision, being 3408 40<sup>th</sup> Place, Brentwood,  
Prince George's County, Maryland

Municipality: Town of Colmar Manor

Heard and Decided: July 17, 2019

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 a variance 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) which prescribes that each lot shall have a minimum net lot area of 5000 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(e)(Table IV) which prescribes that each lot shall have a side yard at least 5 feet in width. Section 27-442(e)(Table IV) prescribes that each lot shall have a rear yard at least 20 feet in depth/width. 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. 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. Petitioner proposes to validate existing conditions (property and dwelling) and construct a driveway in front of the house. Variances of 1000 square feet net lot area, 10 feet front building line width, 2 feet side yard width, 14.9 feet rear yard width, 7.5% 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 1918, contains 4000 square feet, is Zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling. The property is comprised of two narrow lots – Lot 22 and 23. Exhibits (Exhs.) 3, 4, 6, 7 and 8 (A) thru (F).
2. Due to the subject property being subdivided in 1918, and the dwelling being constructed in 1921, a variance of 1,000 square feet net lot area is required; as well as the (combined) front building width of the subject property only being 40 feet wide, which requires a variance of 10 feet front street line width. The right-side yard setback being only 3 feet from the dwelling to the side property line will require a variance of 2 feet width. The dwelling which is located only 5.1 feet from the rear yard line, will require a variance of 14.9 feet rear yard setback. Exh. 3.
3. Petitioner Jaime Amaya would like to construct a driveway on the property, but a waiver of the parking area location is required. Exhs. 3 and 5 (A) thru (I).

4. Petitioner testified that there is an existing fire hydrant in front of the left side of the property and a driveway must be located at least 5 feet from the hydrant. He concluded that the driveway can only be located on the front right side of the property.<sup>1</sup> Exhs. 2, 3 and 5 (A) thru (I).

5. Petitioner further stated that the front yard is sloped downward towards the street, necessitating a retaining wall.<sup>2</sup> Exhs. 3 and 5 (A) thru (I).

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

Due to the existing location and age of the dwelling, the age of the property, an existing fire hydrant limiting the location of the proposed driveway, 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, unanimously, that variances of 1000 square feet net lot area, 10 feet front building line width, 2 feet side yard width, 14.9 feet rear yard width, 7.5% net lot coverage and a waiver of the parking area location requirement in order to validate existing conditions (property and dwelling) and construct a driveway on the property located at 3408 40<sup>th</sup> Place, Brentwood, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 3.

#### BOARD OF ZONING APPEALS

(ORIGINAL SIGNED)

By: \_\_\_\_\_

Bobbie S. Mack, Chairperson

<sup>1</sup> The right-side yard is only 3 feet and is next to a walkway to the dwelling. Exh 3.

<sup>2</sup> There is an existing 4 feet retaining wall across the front of the property. Exh. 3.

**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.