

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

Petitioners: Edy Najeras and Esmeralda Ciciliano

Appeal No.: V-119-19

Subject Property: Lots 27 and 28, Block 10, Colmar Manor Subdivision, being 3404 40th Avenue,
Brentwood, Prince George's County, Maryland

Municipality: Colmar Manor

Heard: January 8, 2020; Decided: February 5, 2020

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(b)(Table I) 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(e)(Table IV) which prescribes that each lot shall have a front yard at least 25 feet in depth. 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 27-442(i)(Table VIII) which prescribes that accessory buildings shall be set back 2 feet from any side or rear lot line. Petitioners propose to validate existing conditions (property, dwelling and development) and obtain a building permit for a proposed construction of a second-story addition. Variances of 1,450 square feet net lot area, 11 feet front building line width, 11 feet front yard depth, 19.2% net lot coverage and 1-foot rear lot line setback for an accessory building (shed) are requested.

Evidence Presented

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

1. The property was subdivided in 1918, contains 3, 550 square feet, is zoned R-55 (One-Family Detached Residential), and is improved with a single-family dwelling, driveway deck and shed. Exhibits (Exhs.) 2, 4, 7, 8 and 9 (A) thru (F).
2. The dwelling was constructed in 1935, prior to current zoning requirements, and consists of only 900 square feet.
3. The lot is extremely small and narrow front at 39-feet in width by 94-feet in length. Exhs. 2 and 4.
4. Petitioner would like to construct a second story addition over the same footprint as the existing dwelling. In order to obtain a building permit, Petitioner must validate the net lot area, front building line width, front yard depth, net lot coverage and rear lot line setback for the accessory building, therefore variances of 1,450 square feet net lot area, 11 feet front building line width, 11 feet front yard depth, 19.2% net lot coverage and 1-foot rear lot line setback for an accessory building (shed) are requested. Exhs. 2, 3, 5 (A) thru (D).

5. Petitioner Edy Najeras testified that he is proposing to add a second story addition because there is insufficient living space for their family of six and the property does not have suitable area for building out. Exhs. 2, 3, 5 (A) thru (D).

6. The Town of Colmar Manor is in agreement with the requested variances. Exh. 27.

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 lot being exceptionally narrow, the house being very small, the dwelling being constructed in 1935 prior to the current zoning requirements, the current need to increase livable square footage 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 1,450 square feet net lot area, 11 feet front building line width, 11 feet front yard depth, 19.2% net lot coverage and 1-foot rear lot line setback for an accessory building (shed) in order to validate existing conditions (property, dwelling and development) and obtain a building permit for a proposed construction of a second-story addition on the property located at 3404 40th Avenue, Brentwood, 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 approved elevation plan, Exhibit 3.

BOARD OF ZONING APPEALS

By: _____

ORIGINAL SIGNED)

Bobbie S. Mack, Chairperson

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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.