

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

Petitioners: Deris Rivera and Maria Castellon

Appeal No.: V-94-18

Subject Property: Lots 18 & 19, Block 8, Colmar Manor Subdivision, being 3412 41st Avenue, Colmar Manor, Prince George's County, Maryland

Municipality: Town of Colmar Manor

Witness: Jessica Vanegas, Wife

Heard: December 5, 2018; Decided: February 6, 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 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) 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(e)(Table IV), which prescribes that each lot shall have a front yard at least 25 feet in depth; and 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. Petitioners propose to validate existing conditions (lot size, lot width, development), convert an enclosed porch into living space and obtain a building permit for a new deck. Variances of 1,000 square feet net lot area, 10 feet front building line width, 11 feet front yard depth and 6.1% net lot coverage are requested

Evidence Presented

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

1. The property was subdivided in 1918, contains (only) 4,000 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and shed. Exhibits (Exhs.) 2, 4, 9, 10 and 11 (A) thru (F).

2. The subject lot is long and narrow with the front building line being only 40 feet. Exhs. 2 and 4.

3. Petitioners would like to convert the existing 10' x 11.3' enclosed porch on the rear of the dwelling into living space, obtain a building permit for a new 5'8" x 13' deck, and replace the door on the shed. The existing covered front porch is located 14 feet from the front street line and existing development exceeds the amount of lot coverage allowed. Variances of 11 feet front yard depth and 6.1% net lot coverage were requested, respectively. Exhs. 2, 3, and 5 (A) thru (J).

4. In addition, the lot size and lot width at the front building line do not meet the current minimum requirement in the R-55 zone. Therefore, variances of 1,000 square feet net lot area and 10 feet front building line width were requested, respectively. Exhs. 2, 3, and 5 (A) thru (J).

5. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued violation notice 64120-16-0, dated December 10, 2016, requiring Petitioners to "Obtain the required

permit(s) for work done . . . or remove the same. Work includes but not limited to rear addition... ". An Order to Show Cause was issued on February 22, 2018. Exh. 7.

6. Petitioner Deris Rivera testified that when he would like to convert a pre-existing sunroom into living area for the family.

7. Petitioners would also like to install a window and a large garage door on the shed they built which does not have a door. Mr. Rivera explained that the shed will be used to store items for his four children and exercise equipment. Exhs. 2, 3, and 5 (A) thru (J).

8. The Town of Colmar Manor approved the requested variances. 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 variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the need for additional living area in the dwelling, need for a place to store outdoor items and equipment, 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 1,000 square feet net lot area, 10 feet front building line width, 11 feet front yard depth and 6.1% net lot coverage in order to validate existing conditions (lot size, lot width, development), convert a 10' x 11.3' enclosed porch into living space and obtain a building permit for a new 5'8" x 13 deck on the property located at Lots 18 & 19, Block 8, Colmar Manor Subdivision, being 3412 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, Exh. 2 and approved elevation plan, Exh 3.

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.