

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-82-15 Isaac Gonzalez

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: September 9, 2015.

CERTIFICATE OF SERVICE

This is to certify that on September 21, 2015, 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
Office of Law
Town of Colmar Manor

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

Petitioner: Isaac Gonzalez

Appeal No.: V-82-15

Subject Property: Lots 1 & 2, Block 9, Colmar Manor Subdivision, being 4001 Newton Street, Brentwood, Prince George's County, Maryland

Municipality: Town of Colmar Manor

Witness: Lauren Clagett, Building Inspector

Heard and Decided: September 9, 2015

Board Members Present and Voting: Bobbie S. Mack, Chairperson
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(e)(Table IV), which prescribes that each corner lot shall have a side yard along the side street 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. Petitioner proposes to validate existing conditions and obtain a building permit for a driveway. Variances of 1,000 square feet net lot area, 10 feet front building line width, 15 feet side street yard depth and 5.1% 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 4,000 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 3, 9 and 10. The existing dwelling was built in 1912. Exhs. 9 and 10.

2. The property is narrow, being 40 feet wide, and consists of two zoning lots. Exhs. 2 and 3. The property is a corner lot with the house facing the legal front street (Newton Street), and driveway access to the property is off of the legal side street (40th Avenue). Exh. 2.

3. Petitioner was cited by the Prince George's County's Department of Permitting, Inspections and Enforcement with Building Violation Notices 22672-13-01 (dated July 9, 2013) and 39733-13-01 (dated November 18, 2013) for constructing a driveway and retaining wall without permits and instructed to obtain the required permit(s) or remove the structures. Exhs. 5 and 6. *Also see Exhs. 7(A) through (C).*

4. Petitioner would like to obtain a building permit for the 15' x 38' driveway on the property, but variances are required before obtaining the permit. Since construction of the driveway caused the maximum allowed amount of net lot coverage to be exceeded, a variance of 5.1% net lot coverage was requested. Exhs. 13 and 14.

5. In addition, variances are needed to validate other existing conditions. Since the size and width of the property do not meet the minimum legal requirements, variances of 1,000 square feet net lot area and 10 feet front building line width were requested. Exh. 14. Also, since the existing dwelling is located only 10 feet from the side street line, a variance of 15 feet side street yard depth was requested. Exh. 14.

6. Petitioner testified that the existing driveway was damaged so he replaced it with concrete and extended it across the rear of the property. Exh. 2.

7. The Town of Colmar Manor supported the request. Exh. 18.

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 lots making up the property being subdivided in 1918, the property being developed in 1912, the narrowness of the property, the property being a corner lot, an existing driveway being damaged and needing replacement, certain existing conditions requiring validation in order to obtain a building permit, 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, Mr. Scott absent, that variances of 1,000 square feet net lot area, 10 feet front building line width, 15 feet side street yard depth and 5.1% net lot coverage in order to validate existing conditions and obtain a building permit for a 15' x 38' driveway on the property located at Lots 1 & 2, Block 9, Colmar Manor Subdivision, being 4001 Newton Street, 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.

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.