

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-77-13 David & Mary Jo Shapiro

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: August 21, 2013.

CERTIFICATE OF SERVICE

This is to certify that on September 11, 2013, 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: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Town of Colmar Manor

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

Petitioners: David & Mary Jo Shapiro

Appeal No.: V-77-13

Subject Property: Lots 57 & 58, Colmar Manor Subdivision, being 3419 41st Avenue, Colmar Manor, Prince George's County, Maryland

Municipality: Town of Colmar Manor

Heard and Decided: August 21, 2013

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, Petitioners request that the Board approve a variance from 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 an existing condition and replace an existing driveway. A variance of 0.6% net lot coverage is 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, detached garage and driveway. Exhibits ("Exhs.") 2, 4, 7 and 8. The existing single-family dwelling was built in 1931. Exhs. 7 and 8.
2. The Board approved net lot area, front building line width, front yard depth and net lot coverage variances in 2006 (Appeal No. V-132-06) to validate existing conditions and construct a one-story addition. Exh. 5.
3. Petitioners would like to replace the existing driveway (approximately 700 square feet), but a variance is needed in order to obtain a building permit. A variance of an additional 0.6% net lot coverage was requested. Exhs. 11 and 12.
4. Petitioner David Shapiro testified that the Town of Colmar Manor ("Town") informed him he needed to rehabilitate his driveway, but not that it would require a permit. Petitioner stated that when he repaved the driveway (Exh. 4), a Town inspector issued him a stop work order and instructed him to get a permit. He explained that only after he applied for the permit did he discover that he needed a variance.
5. The Town took no position on the request. Exh. 17.

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 conditions on the property, the instruction by the Town to replace the existing driveway because of its impaired condition, the replacement driveway being no larger than the original 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 owners of the property.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 0.6% net lot coverage in order to validate an existing condition and replace an existing driveway consisting of approximately 700 square feet on the property located at Lots 57 & 58, Colmar Manor Subdivision, being 3419 41st Avenue, Colmar Manor, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance 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.