

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-100-13 Carmen Solorzano Castro

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: December 4, 2013.

CERTIFICATE OF SERVICE

This is to certify that on January 10, 2014, 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
Town of Colmar Manor
Other Interested Parties

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

Petitioner: Carmen Solorzano Castro

Appeal No.: V-100-13

Subject Property: Lots 51 & 52, Block 7, Colmar Manor Subdivision, being 3413 41st Avenue, Brentwood, Prince George's County, Maryland

Municipality: Town of Colmar Manor

Witness: Cesar Estupinan

Heard and Decided: December 4, 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 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; and Section 27-442(e)(Table IV), which prescribes that each lot shall have a front yard at least 25 feet in depth. Petitioner proposes to validate existing conditions and construct an open, uncovered front porch. Variances of 1,000 square feet net lot area, 10 feet front building line width and 12 feet front yard depth 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, 4, 8 and 9. The property is located within the municipal limits of the Town of Colmar Manor and the existing single-family dwelling was built in 1931. Exhs. 8 and 9.
2. The subject property consists of two 20' x 100' zoning lots, making the building lot 40 feet wide and 100 feet deep. Exhs. 2 and 4.
3. Petitioner began construction of a deck on the front of the house without obtaining a building permit. Exhs. 5(B), (C) and (D). The Town of Colmar Manor posted a stop work order on the property. Exh. 6.
4. Petitioner would like to complete construction of a 4'8" x 16' open, uncovered front porch (Exhs. 1 and 2), but variances are needed to obtain a building permit. Since the porch would be located only 13 feet from the front street line, a variance of 12 feet front yard depth was requested. Exh. 11.
5. In addition, both lot size and lot width along the front building line require validation. Variances of 1,000 square feet net lot area and 10 feet front building line width were requested to validate the existing conditions (only 4,000 square feet net lot area and 50 feet wide at front building line). Exh. 11.

6. Petitioner testified that the previous front porch was old, rotting and dangerous (Exhs. 5(A) and 21(D) through (F)) so it was removed and was being replaced when construction was stopped. Exhs. 5(B) through (D), 6 and 21(A) through (C).

7. Cesar Estupinan, Petitioner's cousin, testified that the new porch is slightly wider than the porch it replaced and is no closer to the street. He stated that the replacement porch is not out of place because the house next door has a porch that similarly extends forward (Exh. 10(B)) and other long covered porches exist on the same street. Exh. 21(F) and (G). He emphasized that the house itself is already too close to the street and cannot be moved.

8. The Town of Colmar Manor took no position on Petitioner's request for variances. Exh. 16.

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 property being subdivided in 1918, the lot being created and the house being built prior to the existence of the current zoning regulations, the small size of the lot, the narrowness of the lot, the need to validate existing conditions to obtain a building permit to complete construction of a new front porch, the replacement porch being no closer to the street than the porch it replaced, 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 associated with the subject property, 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 1,000 square feet net lot area, 10 feet front building line width and 12 feet front yard depth in order to validate existing conditions and construct a 4'8" x 16' open, uncovered front porch on the property located at Lots 51 & 52, Block 7, Colmar Manor Subdivision, being 3413 41st 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 the approved elevation plans, Exhibits 3(a) through (d).

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.