

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-16-15 Kurt Pluntke

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: March 25, 2015.

**CERTIFICATE OF SERVICE**

This is to certify that on April 17, 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  
Town of Colmar Manor

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

Petitioner: Kurt Pluntke

Appeal No.: V-16-15

Subject Property: Lots 13 thru 17, Block 22, Colmar Manor Subdivision, being 3304 40th Avenue, Colmar Manor, Prince George's County, Maryland

Municipality: Town of Colmar Manor

Heard and Decided: March 25, 2015

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(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a front yard at least 25 feet in depth, and Section 27-442(i)(Table VIII), which prescribes that on corner lots accessory buildings shall be set back 30 feet from the side street line and 10 feet from the rear lot line. Petitioner proposes to validate existing conditions and construct a two-story addition and sunroom. Variances of 9 feet front yard depth for the dwelling and variances of 12 feet side street line and 10 feet rear lot line setbacks for the accessory garage are requested.

Evidence Presented

1. The property was subdivided in 1918, contains 10,000 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and detached garage. Exhibits ("Exhs.") 2, 4, 9 and 10. The single-family dwelling was built in 1929. Exhs. 9 and 10.
2. The property is located within the Chesapeake Bay Critical Area (Intense Development Overlay). Exhs. 6 and 10.
3. The property is a corner lot with both street lines being 100 feet in length. Exh. 2. The legal front street is 40th Avenue and legal side street is Kearney Road.
4. Petitioner would like to construct a 15'4" x 16' two-story addition and a 7'8" x 20'4" sunroom on the side of the existing dwelling, but variances are necessary before obtaining a building permit. Since the existing dwelling is located 16 feet from the front street line (the proposed addition would be set back 18 feet), a variance of 9 feet front yard depth was requested. Exh. 12.
5. The detached garage is located on the rear lot line and is 18 feet from the side street line. Variances of 10 feet rear lot line and 12 feet side street line setbacks for the accessory garage were also requested. Exh. 12.
6. Petitioner testified that because the front entrance to his house is on the 40th Avenue side (Exhs. 5(C) and (D)), which has been determined to be the legal front, his proposed addition is subject to the required 25-foot front yard setback.

7. Petitioner further testified that validation is required for the location of the garage that extends to the property line on the Kearney Road side of the property (Exhs. 5(E) and 11(G)).

8. Petitioner stated that his house is the last one on his side of 40th Avenue, a park adjoins his property on the 40th Avenue side and he has no neighbors on the side of his property where the addition is proposed. Exh. 11(A).

9. The Town of Colmar Manor supports the request. Exh. 17.

10. The Environmental Planning Section of The Maryland-National Capital Park and Planning Commission indicated that a Chesapeake Bay Critical Area Conservation Plan is not required for this project per Council Bill 65-2015 (County Code Section 5B-116(a)(2)), but underlying zoning requirements apply. Exh. 6.

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 house being built in 1929, the property being a corner lot with street lines of equal length, 40th Avenue being determined to be the legal front street, the need for additional living space, the house being the last house on 40th Avenue, 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, unanimously, that variances of 9 feet front yard depth for the dwelling and variances of 12 feet side street line and 10 feet rear lot line setbacks for the accessory garage depth in order to validate existing conditions and construct a 15'4" x 16' two-story addition and 7'8" x 20'4" sunroom on the property located at Lots 13 thru 17, Block 22, Colmar Manor Subdivision, being 3304 40th 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, Exhibit 2, and the approved elevation plan, Exhibit 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.