


*NOTICE OF FINAL DECISION*  
*OF BOARD OF APPEALS*

RE: Case No. V-217-07 Mayor and Town Council of Colmar Manor

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: January 30, 2008 .

**CERTIFICATE OF SERVICE**

This is to certify that on March 6, 2008 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

  
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Anne F. Carter  
Administrator

cc: Petitioner  
Adjoining Property Owners  
DER, Building Code Official, Permit & Review Div.  
M-NCPPC, Permit Review Section  
Municipality  
Historic Preservation, M-NCPPC  
Other Interested Parties

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

Petitioners: Mayor and Town Council of Colmar Manor

Appeal No.: V-217-07

Subject Property: Parcels 178 & 163, Tax Map 58, Grid B-1; Lots 11, 12, & 13, Block 34, First Addition to Colmar Manor Subdivision; a third parcel of land described only in a deed dated October 31, 1991 (Liber 8112 at Folio 778); and a portion of Lawrence Street; the subject property being 3701 Lawrence Street, Colmar Manor, Prince George's County, Maryland

Municipality: Town of Colmar Manor

Counsel for Petitioner: John R. Barr, Esq., Coover & Barr, LLC

Witness: Donald Koch, Civil Engineer

Heard and Decided: January 30, 2008

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(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a front yard at least 25 feet in depth, a side yard at least 8 feet in width and a rear yard at least 20 feet in depth/width. Petitioners propose to construct a new two-story municipal center building. Variances of 13 feet front yard depth, 1 foot east side yard width and 13 feet rear yard depth/width are requested.

**Evidence Presented**

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

1. The property contains .7466 acre (.7004 acre, plus street use), is zoned R-55 (One-Family Detached Residential), O-S (Open Space) and R-O-S (Reserved Open Space) and is improved with a one-story building and parking area. The property is odd-shaped and contains steep slopes (Exhibits 2 & 3).
2. The subject property is identified as two (2) parcels of land known as Parcels 178 and 163 on Tax Map 58 of the Tax Maps of Prince George's County; Lots 11, 12 and 13, Block 34, in a subdivision known as "First Addition to Colmar Manor," together with a third parcel of land described only in a deed dated October 31, 1991, and made by Prince George's County, Maryland to the Town of Colmar Manor (the "Town") and recorded was created in the Land Records of the County in Liber 8112 at folio 778. All of these parcels and lots are contiguous. Parcel 178 and Lots 11, 12 and 13, Block 34 are zoned R-55; Parcel 163 is zoned O-S; and the property described only by deed is zoned R-O-S. Public buildings and uses are permitted uses in all three zones. See Exhibit 3.

3. Petitioner would like to construct an 85' x 99' two-story building on the property. The proposed building (municipal center) will replace the old Town Hall, built in 1959 and in a state of decay. See Exhibit 3. Since the proposed building will be located 12 feet from the front street line, 7 feet from the side lot line and 7 feet from the rear lot line (Exhibit 4), variances of 13 feet front yard depth, 1 foot side yard width and 13 feet rear yard depth/width were requested, respectfully.

4. The only zoning decision affecting the property is Departure from Parking and Loading Standards 327 ("DPLS 327") approved by the Planning Board (the "Planning Board") of the Maryland-National Capital Park and Planning Commission ("M-NCPPC") on December 20, 2007 (Exhibit 3). Counsel for Petitioner stated that the need for variances was not identified at the time DPLS 327 was reviewed by the Planning Board.

5. Counsel for Petitioner explained that the Town Hall has been used since 1959 and is decaying. He stated that two years ago, the Mayor and Town Council determined that a new and larger Town Hall should be constructed to accommodate the current needs of the Town.

6. Counsel further explained that the property slopes downhill from front to rear and the new Town Hall structure will be built into the side of a steep hill, with the entrance being off Lawrence Street at the top of the hill. A road behind the property is used for access by M-NCPPC to the Colmar Manor ball field and this road crosses the subject property in various places. There is a street and some landscaped area between the Town Hall and Old Colmar Manor Elementary School, adjoining parkland to the rear of the property, and an existing house across the street which is 60 feet from the Town Hall building.

7. Counsel argued that the variance request fulfills the criteria for approval by the Board. He stated that as various pieces of property making up the subject property have been obtained during the last 60 years, with some irregular-shaped areas and land with steep slopes, a situation where exceptional narrowness, shallowness, and shape, as well as exceptional topographic conditions, and other extra-ordinary situations or conditions make the use of the property for any purpose difficult. It was stated that the public purpose of municipal government is to best serve its constituents and would best be served by approval of the request by the Board. It was further stated that unless the request is granted, the true owners of the property, the residents of the Town, for whom the Mayor and Council hold and operate Town Hall as public trust, would suffer peculiar and unusual as well as practical difficulties, which would create an exceptional and undue hardship. It was also stated that where the public benefit is not served, the intent, purpose and integrity of the General Plan and any Master Plan impacting upon the property are equally not served. See Exhibit 3.

8. M-NCPPC, Historic Preservation & Public Facilities Planning Section (HPPFP), reviewed the request. HPPFP stated that the subject property is adjacent to Fort Lincoln Cemetery, which includes Battery Jamison, Historic Resource #68-015. It was stated that because Battery Jamison is not designated as a Historic Site, the provisions of the Prince George's County Landscape Manual that require buffering of Historic Sites do not apply. However, because a variance is required in this case, Alternative Compliance with the provisions of the Landscape Manual must be requested, and may result in buffering requirements not specifically associated with the presence of the Battery Jamison Historic Resource. See Exhibit 19.

9. Petitioner submitted an M-NCPPC Zoning Section Referral Request that includes a comment (10/25/07) that the Town Hall DPLS-327 will have no effect on Historic Resources (Exhibit 22).

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 subject property having three different zoning classifications, public buildings and uses being permitted in all three zones, the property being made up of various pieces of land obtained at different times during the last 60 years, the shapes of the various pieces of land causing the unusual situation of exceptional shallowness/shape/narrowness of the property, the sloping topography of the property, the existing Town Hall being built in 1959, the existing building having suffered severe deterioration and Petitioner proposing to replace the existing building with a larger one to accommodate the current needs of the Town to serve its residents, 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 13 feet front yard depth, 1 foot east side yard width and 13 feet rear yard depth/width in order to construct a new two-story municipal center building on the property located at Parcels 178 & 163, Tax Map 58, Grid B-1; Lots 11, 12, & 13, Block 34, First Addition to Colmar Manor Subdivision; a third parcel of land described only in a deed dated October 31, 1991 (Liber 8112 at Folio 778); and a portion of Lawrence Street; the subject property being 3701 Lawrence Street, 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 4, and the approved elevation plans, Exhibit 5(a)&(b).

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.