

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-110-13 Winston & Brenda DeCruise

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 15, 2014 .

CERTIFICATE OF SERVICE

This is to certify that on February 5, 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: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Other Interested Parties

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

Petitioners: Winston & Brenda DeCruise

Appeal No.: V-110-13

Subject Property: Lot 2, Baden Acres Subdivision, being 16002 Baden Naylor Road, Brandywine,
Prince George's County, Maryland

Witnesses: Charles Queen, neighbor

Wayne Dixon, professional landscaper

Heard and Decided: January 15, 2014

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 5% of the net lot area shall be covered by buildings and off-street parking. Petitioners propose to validate an existing condition and construct a detached garage and driveway extension. A variance of 3.8% net lot coverage is requested.

Evidence Presented

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

1. The property was subdivided in 1984, contains 5.02198 acres, is zoned O-S (Open Space) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 4, 7 and 8. The existing single-family dwelling was built in 1989. Exhs. 7 and 8.

2. The property is an odd-shaped lot with access to the public street provided by use of a shared private right-of-way easement. Exhs. 2, 4, 17 and 19. The private right-of-way area is considered part of the total net lot area of the subject property. Exh. 2. The property is located in a rural area with large lots. Exh. 9(A).

3. Petitioners would like to construct a 33.4' x 61.9' detached garage and driveway extension, but a variance is needed to obtain a building permit. Since construction of the garage and driveway would cause the allowed amount of net lot coverage (5%) to be further exceeded, a variance of 3.8% net lot coverage was requested. Exhs. 11 and 12.

4. Petitioner Winston DeCruise testified that the proposed three-car garage would not be used for living space and the exterior of the garage would have brick to be consistent with the character of the house.

5. Charles Queen, owner of the property directly across the private right-of-way from Petitioners' property, supported the granting of the variance request.

6. Mr. DeCruise further testified that there is an open field on the other side of his property. Exhs. 9(A), (B), (D) and (E).

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 unusual shape of the property, access to the public street being provided by use of a shared private right-of-way easement, the private right-of-way area being considered part of the property, the location of the existing driveway on the property, the property being located in a rural area with large lots, 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 3.8% net lot coverage in order to validate an existing condition and construct a 33.4' x 61.9' detached garage and driveway extension on the property located at Lot 2, Baden Acres Subdivision, being 16002 Baden Naylor Road, Brandywine, 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, 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.