

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

Petitioners: Jane and Mark Vogt

Appeal No.: V-4-18

Subject Property: Parcel 22, Tax Map 157, Grid E2, being 15200 Baden Naylor Road, Brandywine,  
Prince George's County, Maryland

Heard and Decided: April 11, 2018

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(b)(Table I) of the Zoning Ordinance, which prescribes that each lot shall have a minimum net lot area of 217,800 square feet (5 acres). Petitioners propose to validate an existing condition to obtain a Zoning Verification Letter to allow relocation of a tasting room. A variance of 55,689 square feet (1.2784 acres) net lot area is requested.

**Evidence Presented**

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

1. The property contains 162,111 square feet (3.7216 acres), is zoned O-S (Open Space) and is improved with only a barn. Exhibits (Exhs.) 2, 9, 10 and 11 (A) thru (F).
2. The property was originally created by deed in 1927, but was created as it exists today by deed dedicating .65 acres of the property to the County in 1954 and 1.67 acres to PEPCO in 1959. The division diminishes the lot to its current size of 162,111 square feet (3.7216 acres). Petitioner Jane Vogt explained that the subject property was originally 6 acres. Exhs. 2, 4, 5, 6, 7, 8 and 20.
3. Petitioners would like to relocate a tasting room from another location to the subject property<sup>1</sup> but a Zoning Verification Letter is required. Because the property does not meet the current minimum lot size requirement (to allow development), a variance of 55,689 square feet (1.2784 acres) net lot area was requested. Exhs. 2, 3 and 12.
4. Petitioner Jane Vogt explained that Petitioners currently operate a winery at another location, their personal residence, where there is sufficient acreage for wine tasting, but insufficient space for (business) parking. She noted that houses on adjoining properties are only 16 feet from their property line. She further testified that the subject property was purchased in 2014 with the intent of relocating the tasting room part of the business to the barn existing on the subject property. Exhs. 2, 3 and 19.
5. Ms. Vogt stated that the new property will provide more room for parking, especially buses, for vineyard tours. She believes the agritourism portion of this business is very important to the County. Exhs. 2, 3 and 19.

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<sup>1</sup> The barn will be converted for use as the tasting room. Exh. 2.

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 1.67 acres and .65 acres having been dedicated to PEPCO and the County, respectively, the net lot area of the subject property being reduced to 3.72 acres which precludes development in the O-S zone, 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 55,689 square feet (1.2784 acres) from the minimum net lot area requirement to validate an existing condition to obtain a Zoning Verification Letter to allow relocation of a tasting room on the property located at Parcel 22, Tax Map 157, Grid E2, being 15200 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.

BOARD OF ZONING APPEALS

By: (ORIGINAL SIGNED)

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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.