

*NOTICE OF FINAL DECISION*


*OF BOARD OF APPEALS*

RE: Case No. V-41-08 Douglas & Elaine Compton

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: June 18, 2008 .

**CERTIFICATE OF SERVICE**

This is to certify that on June 26, 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

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

Petitioners: Douglas & Elaine Compton

Appeal No.: V-41-08

Subject Property: Lot 1, Addition to Townshend Subdivision, being 16010 McKendree Road,  
Brandywine, Prince George's County, Maryland

Heard: May 21, 2008; Decided: June 18, 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 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(i)(Table VIII) of the Zoning Ordinance, which prescribes that accessory buildings shall generally be located only in the rear yard. Petitioners propose to validate an existing detached garage and construct a new single-family dwelling. A waiver of the rear yard location requirement for an accessory building is requested.

Evidence Presented

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

1. The property was subdivided in 1951, contains 197,135 square feet (4.53 acres), is zoned R-R (Rural Residential) and is improved with a two-car garage, concrete pad and driveway. See Exhibits 2, 4 & 6.
2. The property is 1,000 feet deep but only 200 feet wide. There is a one-acre designated tree preservation area at the rear of the lot. See Exhibit 2.
3. Petitioners would like to construct a one-story single-family dwelling, with basement, set back approximately 320 feet from the front street line. In order to obtain a building permit to construct the dwelling that far back on the lot, an existing detached garage located about 220 feet from the front street line must be validated. Since the detached garage would be located in the legal front yard once the dwelling is constructed, a waiver of the rear yard location requirement for an accessory building was requested.
4. Petitioner Douglas Compton testified that they own the properties adjacent to the subject property. He stated that they bought the subject property in 1977 and built the four-bay garage in 1983 to store their tractors and cars. He explained that at the time the garage was built, he would never have thought it would create a problem later if the subject property were developed.

5. Mr. Compton further testified that the proposed house would not be directly behind the garage. He explained that a creek and sewer line cross the lot behind the site for the proposed house. He stated that the house is proposed for the only feasible place on the lot; there is a steep drop-off from the street and another drop-off behind the proposed house site before the creek line.

6. The Development Review Division of the Maryland-National Capital Park and Planning Commission reviewed the request and stated that there are no subdivision issues with the proposed structure, which would be located behind the existing 50-foot building restriction line shown on the subdivision plat (Exhibit 12).

#### 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 property being subdivided in 1951 as a buildable lot, the narrowness of the property, the topography of the property preventing construction of the proposed dwelling in front of the garage, there being a designated tree preservation area at the rear of the lot, a creek and sewer line crossing the property behind the proposed dwelling, the garage needing validation having been built in 1983, the garage being more than 200 feet back from the street line and to the side of the proposed dwelling, 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 waiver of the rear yard location requirement for an accessory building in order to validate an existing detached garage and construct a new single-family dwelling on the property located at Lot 1, Addition to Townshend Subdivision, being 16010 McKendree 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, Exhibit 3(a)-(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.