

**STANDARD APPLICATION**  
**Harford County**  
**Board of Appeals**  
 Bel Air, Maryland 21014

**RECEIVED**

AUG 16 2005

Case No. 5512  
 Date Filed 8/15/05  
 Hearing Date \_\_\_\_\_  
 Receipt \_\_\_\_\_  
 Fee 50.00

HARFORD COUNTY COUNCIL

*Shaded Areas for Office Use Only*

**Type of Application**

- \_\_\_\_\_ Administrative Decision/Interpretation
- \_\_\_\_\_ Special Exception
- \_\_\_\_\_ Use Variance
- \_\_\_\_\_ Change/Extension of Non-Conforming Use
- \_\_\_\_\_ Minor Area Variance
- \_\_\_\_\_ Area Variance
- \_\_\_\_\_ Variance from Requirements of the Code
- \_\_\_\_\_ Zoning Map/Drafting Correction

**Nature of Request and Section(s) of Code**

CASE 5512 MAP 41 TYPE Variance  
 ELECTION DISTRICT 03 LOCATION 1702 North Fountain Green Road  
 BY James Ray and Jimmie Leigh Pence Melton  
 -Appealed because variance pursuant to Sec. 267-34C, Table II of the Harford County  
 Code to permit an addition to encroach the required 40' side yard setback (20' proposed)  
 in the Ag District requires approval by the Board.

*NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.*

**Applicant/Owner (please print or type)**

Name James Ray Melton Phone Number 410-879-9868

Address 1702 North Fountain Green Road Bel Air MD 21015-1408  
*Street Number Street City State Zip Code*

Co-Applicant Jimmie Leigh Pence Melton Phone Number 410-879-9868

Address 1702 North Fountain Green Road Bel Air MD 21015-1408  
*Street Number Street City State Zip Code*

Contract Purchaser \_\_\_\_\_ Phone Number \_\_\_\_\_

Address \_\_\_\_\_  
*Street Number Street City State Zip Code*

Attorney/Representative \_\_\_\_\_ Phone Number \_\_\_\_\_

Address \_\_\_\_\_  
*Street Number Street City State Zip Code*

**Land Description**

Address and Location of Property 1702 North Fountain Green Road, Bel Air, MD 21015-1408

Subdivision 3233

Lot Number 1

Acreage/Lot Size 0.752

Election District 03

Zoning AG

Tax Map No. 41

Grid No. 1C

Parcel 616

Water/Sewer: Private

Public

List ALL structures on property and current use: Single-story frame dwelling with attached 2-car garage used as a primary residence

Estimated time required to present case: 30 minutes

If this Appeal is in reference to a Building Permit, state number \_\_\_\_\_

Would approval of this petition violate the covenants and restrictions for your property? No

Is this property located within the County's Chesapeake Bay Critical Area? Yes  No

If so, what is the Critical Area Land Use designations: \_\_\_\_\_

Is this request the result of a zoning enforcement investigation? Yes  No

Is this request within one (1) mile of any incorporated town limits? Yes  No

**Request**

To decrease the existing 40-foot building setback on the North side of the property to a 20-foot building setback to add an attached 4-car garage onto the existing residence with renovation of the existing 2-car garage into additional living space.

**Justification**

As defined in COMAR 26.23.1.1(B)(51), an intermittent stream approximately 30 feet wide at maximum flow traverses across the property from NW to SE to a designated non-tidal wetlands that adjoins the SE side of the property. Since this stream is connected to the non-tidal wetlands, it has a 25-foot buffer that extends toward the house from the side of the stream. Located 16 feet directly behind the house is the septic system with the drain field located in the NW corner of the property. The well is located 20 feet from the NE corner of the house with the water line and pump electric line

*If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)*

## **Standard Application Harford County Board of Appeals**

### **Justification (continued)**

entering the house below grade at the NE corner. The property is considered to have two road frontages. The first on the East side of the property along N. Fountain Green Road (Rte. 543) and the second on the North side of the property along the right of way leading to the properties behind 1702 N. Fountain Green Rd. The second right of way is not maintained by the Harford County or Maryland State Roads Administrations and is strictly used as a driveway for the following properties. Attaching the proposed garage as illustrated in the attached drawing places the garage away from the 25-foot buffer of the stream, clear of the drain field of the septic system, away from the well, and in the less significant setback of the second right of way.

With the proposed addition, the existing garage will then be renovated into additional living space. This additional living space will allow for better accommodations for the planned addition of James' mother to the household due to her declining health and inability to drive. Having her in our house (as opposed to living alone) will allow for a more watchful eye on her health and faster medical attention when needed.

The proposed garage will store the 2 show cars that are currently in the existing garage and 2 of the remaining 4 cars that currently park in the driveway. This will result in a neater appearance to the property and eliminate the "used car lot" look of the property.

The increased living space and larger garage will ultimately increase the value of the property to keep it more in line with the neighboring properties of Vineyard Oaks.



DAVID R. CRAIG  
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO  
DIRECTOR OF ADMINISTRATION



ANTHONY S. McCLUNE  
ACTING DIRECTOR OF PLANNING & ZONING

## HARFORD COUNTY GOVERNMENT

### Department of Planning and Zoning

August 22, 2005

### STAFF REPORT

### **BOARD of APPEALS CASE No. 5512**

APPLICANT/OWNER: James Ray Melton  
1702 North Fountain Green Road, Bel Air, Maryland 21015-1408

Co-APPLICANT: Jimmie Leigh Pence Melton  
1702 North Fountain Green Road, Bel Air, Maryland 21015-1408

REPRESENTATIVE: Applicants

LOCATION: 1702 North Fountain Green Road – Land of J. John Minnick  
(Plat 21-55)  
Tax Map: 41 / Grid: 1C / Parcel: 616 / Lot: 1  
Election District: Third (3)

ACREAGE: 0.752 of an acre

ZONING: AG/Agricultural

DATE FILED: August 15, 2005

HEARING DATE: October 5, 2005

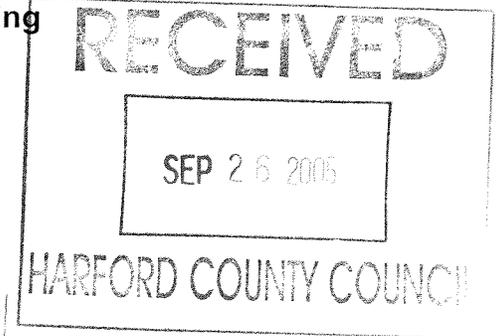
### **APPLICANT'S REQUEST and JUSTIFICATION:**

#### Request:

“To decrease the existing 40-foot building setback on the north side of the property to a 20-foot setback to add an attached 4-car garage onto the existing residence with renovation to the existing 2-car garage into additional living space.”

#### Justification:

*Preserving Harford's past; promoting Harford's future*



## STAFF REPORT

Board of Appeals Case Number 5512

James and Jimmie Melton

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“As defined in COMAR 26.23.1.1 (B) (51), an intermittent stream approximately 30 feet wide at maximum flow traverses across the property from NW to SE to a designated non-tidal wetlands that adjoins the SE side of the property. Since this stream is connected to the non-tidal wetlands, it has a 25-foot buffer that extends towards the house from the side of the stream. Located 16 feet directly behind the house is the septic system with the drain field located in the NW corner of the property. The well is located 20 feet from the NE corner of the house with the water line and pump electric line entering the house below grade at the NE corner. The property is considered to have two road frontages. The first on the east side of the property along N. Fountain Green Road (Rte 543) and the second on the north side of the property along the right of way leading to the properties behind 1702 N. Fountain Green Road. The second right of way is not maintained by the Harford County or Maryland State Road Administrations and is strictly used as a driveway for the following properties. Attaching the proposed garage as illustrated in the attached drawing places the garage away from the 25-foot buffer of the stream, clear of the drain field of the septic system, away from the well, and in the less significant setback of the second right of way.

With the proposed addition, the existing garage will then be renovated into additional living space. This additional living space will allow for better accommodations for the planned addition of James’ mother to the household due to her declining health and inability to drive. Having her in our house (as opposed to living alone) will allow for a more watchful eye on her health and faster medical attention when needed.

The proposed garage will store the 2 show cars that are currently in the existing garage and 2 of the remaining 4 cars that currently park in the driveway. This will result in a neater appearance to the property and eliminate the “used car lot” look of the property.

The increased living space and larger garage will ultimately increase the value of the property to keep it more in line with the neighboring properties of Vineyard Oaks.”

### **CODE REQUIREMENTS:**

The Applicants are requesting a variance pursuant to Section 267-34C, Table II of the Harford County Code to permit an addition to encroach into the required 40-foot front yard setback (20-foot proposed) in the AG/Agricultural District.

Enclosed with the report is a copy of Section 267-34C, Table II of the Harford County Code (Attachment 1).

### **LAND USE and ZONING ANALYSIS:**

Land Use – Master Plan:

## STAFF REPORT

Board of Appeals Case Number 5512

James and Jimmie Melton

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The Applicant's property is located on the west side of North Fountain Green Road, north of the intersection of Prospect Mill Road and adjoins the north side of the Vineyard Oaks North subdivision. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 2 and 3).

The subject property is located within the Development Envelope. The predominant land uses in the area are Low, Medium, High Intensities, and Industrial/Employment. The Natural Features Map reflects stream systems and "Sensitive Species Project Review Areas". The subject property is designated as Medium Intensity, which is defined by the 2004 Master Plan as:

**Medium Intensity** - Areas within the Development Envelope where residential development is the primary land use. Density ranges from 3.5 to 7.0 dwelling units per acre. Grocery stores, variety stores and other commercial uses are examples of some of the more intensive uses associated with this designation.

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 4 and 5).

### Land Use – Existing:

The existing land uses in this area of the County conform to the overall intent of the 2004 Master Plan. The area contains a mix of uses including residential, commercial, industrial, and institutional uses. The topography of the area ranges from rolling to steep especially near the stream valleys. A topography map and a copy of the aerial photograph are enclosed with the report (Attachments 6 and 7).

The Applicants own lots 1 and 2 in the subdivision recorded as J. John Minnick (Attachment 8). The subject lot, Lot 1, is an irregular shaped lot with frontage on North Fountain Green Road (MD Route 543) and a recorded private 50-foot wide right-of-way used in common by 5 other lots. The Lot 1 is approximately 0.752 acres in size and contains a frame single family rancher with an attached 2 car garage and an open deck attached to the rear. The rear yard is fenced with a wooden post and rail fence. Other improvements include a well and septic system. Two thirds of the lot is densely wooded with topography that is considered rolling. Running through the lot is an intermittent stream. The front of the lot slopes down towards MD Route 543 into a drainage swale that parallels MD Route 543. Enclosed with the report are site photographs along with an enlargement of the aerial photograph (Attachments 9 and 10).

### Zoning:

The zoning classifications in the area are mainly consistent with the 2004 Master Plan as well as the existing land uses. The area is a mix of zoning including residential, commercial and industrial. Residential zoning includes R1 through R3/Urban Residential Districts. Commercial zoning includes B1/Neighborhood Business, B3/General Business and CI/Commercial Industrial

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Districts. There are also areas of GI/General Industrial zoning. The subject property is zoned AG/Agricultural as shown on the enclosed copy of the zoning map (Attachment 11).

**SUMMARY:**

The Applicants are requesting a variance pursuant to Section 267-34C, Table II of the Harford County Code to permit an addition to encroach into the required 40-foot front yard setback (20-foot proposed) in the AG/Agricultural District.

Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the applicant must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

The Department finds that the subject property is unique. The property contains an intermittent stream which severely restricts the buildable area of the lot. The area along the private road serves as the applicant's side yard. The private road is a narrow road that serves only a few lots. The proposed garage will not impact traffic along the private road. The requested variance will not have an adverse impact on the adjacent properties of the intent of the Code.

**RECOMMENDATION and or SUGGESTED CONDITIONS:**

The Department of Planning and Zoning recommends that the request be approved subject to the following conditions:

1. The Applicants shall obtain all necessary permits for the conversion of the existing garage and the construction of the new garage.
2. The garage shall only be for the personal use of the Applicants.
3. The garage shall not be used in the furtherance of a business.
4. The garage shall not be used for the storage of commercial vehicles or contractor's equipment.
5. The Applicants shall, where possible, maintain the existing trees between the garage and the private roadway.



Dennis J. Sigler, Coordinator  
Zoning & Board of Appeals Review



Anthony S. McClune, Acting Director  
Department of Planning and Zoning

DJS/ASM/jf