

**JOSEPH R. & LAURA C. H. BEEMAN, JR.**  
**14429 Pen Mar High Rock Road**  
**Cascade, MD 21719**

**APPEAL NO. AP2006-081**

**Appellants**

**OPINION**

This action is a request for a variance from the required 15 feet rear yard setback to 4 feet to install a 16x32' in-ground pool and for a variance from the minimum 10 feet right side yard to 4 feet for 24x38' detached residential garage. The subject property is located at 14429 Pen Mar High Rock Road, Cascade, MD 21719, is owned by the Appellants, and is zoned Environmental Conservation.

A public hearing was held before a full Board on July 19, 2006. The Appellants offered evidence and testimony in support of the appeal. Neither opposing testimony nor evidence was presented to the Board.

**FINDINGS OF FACT**

The following findings of fact are made by the Board, based upon the testimony given and all data and other evidence presented, and upon a study of the specific property involved, as well as the neighborhood:

1. Appellants propose installation of an in-ground pool and a residential storage shed.
2. The structures are sited at the most logical locations.
3. Appellants' neighbors have no objection to this appeal.
4. The most-affected property is a forested area.
5. Received and filed with the Board was a memorandum from Kathy A. Kroboth, Washington County Zoning Coordinator, advising that the appeal is consistent with the Comprehensive Plan.

## RATIONALE

This Board has authority to grant a variance upon a showing by the Appellant of practical difficulty or undue hardship. Sections 25.2(c) and 25.56, Zoning Ordinance for Washington County, Maryland. "Practical Difficulty" may be found by the Board when: (1) strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome; and (2) denying the variances would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and (3) granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. Section 25.56(a).

In the instant appeal, Appellants propose installation of a swimming pool and erection of a garage. The size and shape of the property prevent strict compliance with the Ordinance, and Appellants' proposed use is a reasonable use for the property. No evidence was presented that the proposed use was incompatible with the neighborhood; disruptive of neighbors' quiet enjoyment of their properties; detrimental to surrounding property values; generative of excessive odors, dust, gas, smoke, fumes, vibrations, or glare; generative of traffic that would exceed the capacity of existing infrastructure; or that the proposal was an inappropriate use of land or structure. Strict compliance would be unduly burdensome, would not provide any added safety or aesthetic benefits, and would fail to advance the spirit and purpose of the Ordinance.

Based upon all of the testimony and evidence presented, this Board finds that the subject request does not adversely affect the public health, safety, security, morals, or general welfare, nor does it result in dangerous traffic conditions, or jeopardize the life and property of neighborhood residents. Accordingly, for the reasons set forth herein, this appeal is hereby GRANTED WITH CONDITIONS AS SET FORTH BELOW this 16th day of August, 2006.

By: Spence Perry, Chair