

EDNA M. PIKE
11507 Rock Hill Road
Hagerstown, MD 21740

APPEAL NO. AP2006-082

Appellant

OPINION

This action is a request for a variance from the required 50 feet setback from a mobile home park property line to 22 feet from existing mobile homes. The subject property is located at 11507 Rock Hill Road, Hagerstown, MD 21740, is owned by the Appellant, and is zoned Hi-2, Highway Interchange.

A public hearing was held before a full Board on July 19, 2006. Appellant offered evidence and testimony in support of the appeal. Opponents offered evidence and testimony in opposition to the appeal.

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. Appellant seeks approval to subdivide the subject property which is now used as an existing mobile home park.
2. The mobile home use of the property predates the implementation of zoning in Washington County. (The mobile homes have been on the property for about 40 to 50 years.)
3. Appellant's family members live in five of the six mobile homes.
4. The subject property is unique in that its shape is unusual and irregular.
5. The property is in the urban growth area.
6. The remaining lands (41 acres) will be given to the record owner's grandson to build his residence thereon.

7. If the property was in an agricultural zone, a setback of only 15 feet would be required.

8. The Appellant has designed the proposed subdivision so that the remaining lands cannot be extensively developed.

9. No additional mobile homes are proposed if this appeal is granted.

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 to subdivide the existing parcel, thereby necessitating the need for a variance. The size and shape of the property prevent strict compliance with the Ordinance, and Appellant's proposed use is a reasonable use for the property. In fact, it is a use that has occurred on the subject property before the adoption of zoning. No convincing 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. In fact, Appellant's proposal was designed in a manner that will eliminate the possibility of extensive development on the remaining lands. 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 this 18th day of August, 2006.

By: Spence Perry, Chair