

**WILLIAM C. & RHONDA J. FULMOR**  
**24808 Pen Mar Road**  
**Cascade, MD 21719**

**APPEAL NO. AP2006-083**

**Appellants**

**OPINION**

This action is a request for a variance from the minimum 25 feet rear yard setback to 12 feet to replace a dwelling destroyed by fire. The subject property is located at 24808 Pen Mar Road, Cascade, MD 21719, is owned by the Appellants, and is zoned Rural Village.

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. Appellant proposes construction of a residence on the subject property.
2. The prior home was destroyed by fire on March 31, 2006.
3. The lot is irregularly shaped.
4. The original house was built in 1912. The proposed house is near the approximate location, or footprint, of the original house.

## 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).

The size and shape of this lot make it unique amongst others in the neighborhood and necessitate this variance. The Appellant is replacing a prior non-conforming structure, and is attempting to minimize the variances required by locating the home near the original house's location. No lesser variance will provide appropriate relief, and no opposition was presented to this appeal. 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, and its granting upholds the spirit of the Ordinance. 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