

JAMES D. SHIFLER
11217 Greenberry Road
Hagerstown, MD 21740

APPEAL NO. AP2006-084

Appellant

OPINION

This action is a request for a variance from the minimum 8 feet left side yard setback to 3 feet for an attached open deck. The subject property is located at 11217 Greenberry Road, Hagerstown, MD 21740, is owned by the Appellant, and is zoned Residential, Urban.

A public hearing was held before a full Board on July 19, 2006. The Appellant 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. The Appellant wishes to attach a small deck without a roof to his home.
2. The deck will be "even" with the carport; thus, no greater encroachment will occur.
3. The lot is irregularly-shaped.
4. Appellant's neighbors have no objections.
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).

The Appellant has met the burden of demonstrating that strict compliance with the Ordinance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome. The deck is to be attached to the existing house at the most-amenable location and is a permitted accessory structure. This variance is necessitated due to the subject property's irregular shape, and a lesser variance would not afford Appellant the relief desired. The most-affected neighbors do not object to the relief requested, and we believe that the granting of the request upholds the spirit 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