

CHARLES M. & MICHELLE R. DWYER
20826 Trovinger Mill Road
Hagerstown, MD 21742

APPEAL NO. AP2006-090

Appellants

OPINION

This action is a request for a variance from the minimum 15 feet right side yard setback to within 3 feet for construction of a two-story addition to an existing dwelling. The subject property is located at 20826 Trovinger Mill Road, Hagerstown, MD 21742, is owned by the Appellants, and is zoned Agricultural (Rural).

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 plan to build an addition to the existing dwelling.
2. The size and shape of the property necessitate this variance.
3. The proposed site is the most logical placement for the addition.
4. The neighbors have no objection to the proposal.

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).

Appellants propose construction of an addition to their existing residence. The layout of the existing residence and the shape and area of the lot necessitate placement of the addition as proposed. Strict compliance with the setback requirements would prevent the Appellant from constructing the addition to the home, while a lesser variance would not give the Appellants substantial relief due to the unique features of the subject property. For these reasons, we believe that granting this variance observes 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