

LARRY WEGNER
11000 Lincoln Avenue
Hagerstown, MD 21740

APPEAL NO. AP2006-099

Appellant

OPINION

This action is a request for a special exception to allow an existing accessory structure on a parcel not improved with a principal use or structure and for a variance from the required 8 feet right side yard setback to 3 feet from future property line of a proposed subdivision. The subject property is located at 11000 Lincoln Avenue, Hagerstown, MD 21740, is owned by the Appellant, and is zoned Residential, Urban.

A public hearing was held before a full Board on August 16, 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 property is to be subdivided into two lots.
2. There is a garage on the second lot which is well-constructed, and Appellant sees little reason to demolish it.
3. Appellant's neighbors have no objections to the appeal.
4. The Appellant will be the property owner most affected by the grant of the requested relief.
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.
6. Received and filed with the Board was a memorandum from Terrence P. McGee,

Chief Engineer, Washington County Engineering Department, advising that the Department took no exceptions to the subject request.

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 requested relief is a reasonable and permitted use of the subject property. The Appellant himself is the most-affected property owner, and no benefit is achieved in this instance by requiring strict compliance with the Ordinance. No arguments were made 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. 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 14th day of September 2006.

By: Spence Perry, Chair