

JOEL L. HOLLIS
13914 Northvalley Drive
Hagerstown, MD 21742

APPEAL NO. AP2006-100

Appellant

OPINION

This action is a request for a variance from the required 35 feet platted front yard setback to 34 feet from the left corner of a proposed addition to an existing carport for conversion to a garage, and for a variance from the required 8 feet right side yard setback to 4.5 feet for same. The subject property is located at 13914 Northvalley Drive, Hagerstown, MD 21742, is owned by the Appellant, and is zoned Residential, Suburban.

A public hearing was held before a full Board on August 16, 2006. Dennis Swope 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 desires to build a two-car garage and is incorporating an existing carport into the structure.
2. The original home on the property was built over the setback accidentally.
3. Appellant's neighbors and his homeowners' association have no objection to the proposal.
4. The most-affected property is now used as farmland.
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).

Appellant's proposal is a reasonable use of the uniquely-angled subject property and is consistent with the Comprehensive Plan. 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. In fact, the evidence showed that the property which will be most-affected by this proposal is now in agricultural use. Requiring strict compliance with the Ordinance would be unduly burdensome as Appellant would redesign the entire home, as it was originally built over the setbacks. As the variances are relatively innocuous and do not engender any opposition from Appellants' neighbors, we feel that the grant of this request advances 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 14th day of September 2006.

By: Spence Perry, Chair