

MICHAEL L. & KIMBERLY A. MILLER
1561 Clover Hill Lane
Knoxville, MD 21758

APPEAL NO. AP2006-103

Appellants

OPINION

This action is an appeal from a determination of the Planning Commission that a one lot subdivision be denied due to inadequate public road frontage. The subject property is located at 1561 Clover Hill Lane, Knoxville, MD 21758, is owned by the Appellants, and is zoned Environmental Conservation.

A public hearing was held before a full Board on August 30, 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 create a lot that they will sell to a their sister.
2. The property will have access to public roads via a right-of-way.
3. The property's topography is best described as a being a gentle or rolling slope.
4. Appellants have no plans for further subdivision.
5. The total property is 45 acres in area, and the remaining lands are wooded.
6. 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.

7. Received and filed with the Board was a memorandum from Terrence P. McGee, P.E., Chief Engineer of the Washington County Engineering Department, advising that the Department recommends disapproval of the request due to the inadequate public road access.

RATIONALE

Section 405.11.B of the Subdivision Ordinance for Washington County, Maryland, states, in pertinent part, that "Every lot shall abut a minimum of twenty-five (25) feet, and shall have access to a road or street that has been dedicated to public use and accepted for public maintenance...." Certain exceptions are allowed for transfers to immediate family members of the developer under certain conditions. See §405.11.B.1. When "extraordinary hardships may result from strict compliance with these regulations, or that existing topographic conditions or irregular shape of the property warrants a variance from these regulations, . . ." the Board ". . . may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of these regulations." §107.

In the instant appeal, Appellant seeks approval to subdivide a 45-acre property for conveyance of the new parcel to an immediate family member for construction of a residence. Any traffic generated by this proposal would be minimal, and we are satisfied that the grant of this appeal will not adversely impact the public health, safety, or welfare. 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. 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 WITH CONDITIONS AS SET FORTH BELOW this 29th day of September, 2006.

Conditions

1. For a ten-year period following the issuance of the occupancy permit, only immediate family members of the Appellants may reside in the dwelling to be constructed on the new parcel.
2. A sprinkler system will be installed in the residence to be constructed on the new

- parcel.
3. Further subdivision of the subject property is not allowed.

BOARD OF APPEALS

By: Spence Perry, Chair