

DOUGLAS WAYNE & RENEE A. BOWERS
4 Atlantic Avenue
Hagerstown, MD 21742

APPEAL NO. AP2006-104

Appellants

OPINION

This action is a request for a variance from the required 8' rear yard setback to 3', from the required 8' right side yard setback to 3', and from the required 25' front yard setback to 20' facing (Eastview Drive) for the construction of a three-car detached garage. The subject property is located at 4 Atlantic Avenue, Hagerstown, MD 21742, is owned by the Appellants, and is zoned Residential, Urban.

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 propose construction of a 3-car detached garage.
2. The garage will be constructed on the back corner of the subject property.
3. Without the requested variances, the garage would be located in the center of Appellant's yard.
4. The lot is irregularly shaped.
5. The neighbors have no opposition to this request.
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, 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).

In the instant appeal, Appellants propose construction of a garage to compliment his residential use of the property. The size and irregular shape of the property prevent strict compliance with the Ordinance, and Appellants' proposed use is a reasonable accessory use for the property. 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. Strict compliance would be unduly burdensome, aesthetically objectionable, and would fail to advance 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 29th day of September, 2006.

BOARD OF APPEALS

By: Spence Perry, Chair