

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

JOHN C. HARTLE
11830B Keifer Funk Road
Smithsburg, MD 21783

Appeal No. AP2007-067

Appellant

OPINION

This action is a request for a variance from the minimum 12' left side yard setback to 5.5' for the construction of a 20' x26' detached enclosed carport. The subject property is located at 11830B Keifer Funk Road, Smithsburg, MD 21783, is owned by the Appellant, and is zoned Residential, Rural.

A public hearing was held before a full Board on August 22, 2007. The Appellant offered evidence and testimony in support of the appeal. Opponents offered evidence and testimony in opposition to the appeal.

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 wishes to build a 20' x26' enclosed carport.
2. This location is the only flat place for a carport on the property. The back of the property slopes downward.
3. The property is only 0.47 acres in area.
4. Opponents testified about concerns regarding the proposed structure's proximity to the property line and obstructed emergency vehicle access. They also objected to the unsightliness of the proposed structure.

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 this action, we find that Appellant has failed to prove a practical difficulty that would allow us to grant the requested relief. The subject property is a relatively small parcel, already burdened with existing structures, impervious surfaces, and steep slopes. It appears that the proposed additional carport structure would overburden an already-crowded lot. Admittedly, the topography of the property somewhat limits its usable area, but there was no showing that such topography was unique to the subject property as opposed to other properties in the area generally. As such, we further find that there is nothing unique about the property such that we could grant a variance even if we were so inclined. "[A] property's peculiar characteristic or unusual circumstances relating only and uniquely to that property must exist in conjunction with the ordinance's more severe impact on the specific property because of the property's uniqueness before any consideration will be given to whether practical difficulty or unnecessary hardship exists." *Cromwell v. Ward*, 102 Md. App. 691, 721 (1995).

We cannot find that the subject request does not adversely affect the public health, safety, security, morals, or general welfare; 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 DENIED this 20th day of September, 2007.

BOARD OF APPEALS

By: Bert Iseminger, Chair