

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

MARK D. & DANA L. KITCHEN
17526 Lincolnshire Road
Hagerstown, MD 21740

Appeal No. AP2007-070

Appellants

OPINION

This action is a request for a variance from the required 8' left side and rear yard setback to 3' for the construction of a detached garage. The subject property is located at 17526 Lincolnshire Road, Hagerstown, MD 21740, is owned by the Appellant, and is zoned Residential, Urban.

A public hearing was held before a full Board on August 22, 2007. 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 Appellants wish to build a detached garage.
2. A variance is needed due to the size and shape of the property, placement of structures thereon, and so that the garage will be accessible from the existing driveway.
3. Other homes in the neighborhood have garages on the property.
4. The house was built in 1950 or 1952.
5. The property is 0.23 acres in area.
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.

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 appeal, an existing home already improves the subject property. The property's shape, size, and the placement of the existing home necessitate this variance, as the proposed location is the best location for the structure given these factors. The proposed use is a permitted use of the property. Strict compliance with the setback requirements would prevent the Appellants from constructing this garage, and a lesser variance would not give the Appellants appropriate relief. For these reasons, we believe that granting this variance observes the spirit 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 20th day of September, 2007.

BOARD OF APPEALS

By: Bert Iseminger, Chair