

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

WAYNE A. FRAZEE, JR.
18010 Horst Lane
Hagerstown, MD 21742

Appeal No. AP2007-073

Appellants

OPINION

This action is a request for a variance from the required 12' left side yard setback to 6' for the construction of a two-car detached garage. The subject property is located at 18010 Horst Lane, Hagerstown, MD 21742, is owned by the Appellant, and is zoned Residential, Rural.

A public hearing was held before a full Board on September 5, 2007. The Appellant offered evidence and testimony in support of the appeal. No opposition was presented 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 single-story, detached, two-car garage at the end of his driveway.
2. The proposed location is the most-practical site given the placement of improvements on the property, its shape, and its size.
3. The proposed garage will encroach less into the setback area than does an existing storage building.
4. Appellant's neighbors have no objections to this 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 this appeal, an existing home already improves the subject property. The property's shape, size, and the placement of the existing home and driveway 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 Appellant from constructing this garage, and a lesser variance would not give the Appellant appropriate relief, as the garage cannot be smaller than is proposed to still be useful. 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 4th day of October, 2007.

BOARD OF APPEALS

By: Bert Iseminger, Chair