

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

MICHAEL BROWN
2319 Nebraska Avenue
Washington, DC 20016

Appeal No. AP2007-075

Appellant

OPINION

This action is a request for a variance from the minimum 50' rear yard setback to 15' for construction of a dwelling. The subject property is located at 7011 Gilardi Road, Boonsboro, MD, is owned by Ronald L. & Lorna J. Webb, and is zoned Environmental Conservation.

A public hearing was held before a full Board on September 19, 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 Appellant seeks to build a single family dwelling on the subject property.
2. The house will sit 110' from Gilardi Road if this variance is granted.
3. The Appellant is buying additional property to square off the lot, and he is trying to preserve as many existing trees as possible.
4. To the rear of the subject property is tree-covered mountain land.
5. Appellants' neighbors have no objections to this proposal.
6. This property was the subject of AP2007-051, which granted an equivalent variance. The additional land that Appellant is acquiring will allow him to place the dwelling farther from Gilardi Road than strict compliance would permit.
7. 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).

The proposed use is a reasonable and permitted use of the property. The proposed site is the preferred location for the dwelling, as the grant of the variance will allow the house to be constructed farther from the road than would otherwise be permitted. There was no evidence presented that showed how strict compliance would achieve any positive benefits. As before, the most-affected neighbor consents to the grant of this variance. 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. In short, Appellant’s land acquisition “tidies up” the newly-created lot, and we see no impediment to the grant of this variance.

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 October, 2007.

BOARD OF APPEALS

By: Bert Iseminger, Chair