

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

HERBERT M. JERNIGAN JR. & HELEN JERNIGAN  
12014 Intyre Road  
Smithsburg, MD 21783

Appeal No. AP2007-079

Appellants

OPINION

This action is a request for a variance from the required 12' left side yard setback to 4' for the construction of a sunroom/two car garage addition. The subject property is located at 12014 Intyre Road, Smithsburg, MD 21783, is owned by the Appellants, and is zoned Residential, Rural.

A public hearing was held before a full Board on October 3, 2007. 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 seek to add a sunroom and two-car garage to their dwelling.
2. The existing garage will be removed and replaced with the new two-car garage.
3. There is no other logical and appropriate site for this addition.
4. Appellants' neighbors have no objections to this proposal.
5. The house was built in the 1960's, prior to the adoption of zoning.
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).

The proposed use is a reasonable and permitted use of the property. The property's shape and size and the placement of the existing home thereon necessitate this variance, as the proposed location is the best location for the structure given these factors. Strict compliance with the setback requirements would prevent the Appellant from adding to his dwelling (which predates adoption of zoning), and a lesser variance would not give the Appellant 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 2<sup>nd</sup> day of November, 2007.

BOARD OF APPEALS

By: Bert Iseminger, Chair