

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

THE MARANATHA BRETHERN CHURCH
C/O RUSS ROBINSON, ESQUIRE
152 W. Washington Street
Hagerstown, MD 21740

Appeal No. AP2007-087

Appellant

OPINION

This action is a request for a variance from the required 50' right side yard setback to 15' for the construction of an open-air pavilion. The subject property is located at 19835 Scott Hill Drive, Hagerstown, MD, is owned by Maranatha Brethren Church, and is zoned Residential, Suburban.

A public hearing was held before a full Board on October 31, 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. Appellant plans to build an open-air 30' x60' pavilion to be used for social gatherings.
2. The property is 9.5 acres in area.
3. Rock outcroppings on the property make it unique from others in the neighborhood and prevent strict compliance with the setback requirements.
4. Due to the position and size of the rock outcroppings, no lesser variance will provide adequate relief.
5. Existing trees will provide screening of the site.
6. Appellant's neighbors have no objections to the request.
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 Appellants have met their burden of demonstrating a practical difficulty. The property is unique from other properties in the area due to the presence of large rock outcroppings which decrease the available building envelope on the site. Moreover, the existing building and parking areas limit the available sites for additional structures. The use is a permitted accessory use of the property, to which no objections were raised. 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. Strict compliance would be unduly burdensome, would not provide any added safety or aesthetic benefits, and would fail to advance the spirit and purpose of the Ordinance.

Based upon all of the testimony and evidence presented, this Board finds that the requested special exception will not have an adverse effect upon the public health, safety, security, morals or general welfare, nor would it result in dangerous traffic conditions or jeopardize the lives or property of people living in the neighborhood. Accordingly, for the reasons set forth herein, this appeal is hereby GRANTED this 30th day of November, 2007.

BOARD OF APPEALS

By: Bert Iseminger, Chair