

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

JEFFREY L. & LORI L. ROYCE
11927 Beavervale Road
Smithsburg, MD 21783

Appeal No. AP2007-088

Appellants

OPINION

This action is a request for a variance from the required 40' front yard setback to 20' 6" and for a variance from the required 12' right side yard setback to 6' for the construction of an attached two-car garage. The subject property is located at 11927 Beavervale 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 31, 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 construct an attached two-car garage addition to their home.
2. The variances are necessitated because the existing house, pool, and pool plumbing prevent placement of the garage elsewhere on the property.
3. The subdivision in which the subject property was located was created before the adoption of zoning.
4. The subject property is a corner lot with an irregular shape.
5. Appellants' neighbors have no objections to this request.
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 constructing this addition, and a lesser variance would not give the Appellant appropriate relief. 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. 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 30th day of November, 2007.

BOARD OF APPEALS

By: Bert Iseminger, Chair