

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

JON & RENATE WILSON
22028 Beaverbrook Drive
Smithsburg, MD 21783

Appeal No. AP2007-089

Appellants

OPINION

This action is a request for a variance from the minimum 120' front yard setback as set forth on the approved subdivision plat of Section A, Beaverbrook, to 105' for the construction of a detached residential garage/workshop and bedroom/living room addition to the front of a dwelling. The subject property is located at 22028 Beaverbrook Drive, 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. Opposing testimony and 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 Appellants wish to expand their existing living room and bedroom; they are not adding any additional bedrooms to the residence.
2. The existing house is 1,250 square feet in area.
3. Testifying in opposition, neighbors voiced concerns about possible commercial activities and car restoration activities as a result of the enlarged garage.
4. In rebuttal, the Appellants stated that they have five vehicles and would like to put them all under roof. There will be no commercial maintenance or restoration activities on the property.
5. 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 existing layout and placement of the home necessitate this variance relief. The use is a permitted accessory use of the property. 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. The Appellants adequately addressed the concerns regarding potential commercial activity, testifying that only routine maintenance would be performed on vehicles they owned. Strict compliance with the setback requirements 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 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