

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

WARREN W. & PENNY SUE CLARK
1004 W. Irvin Avenue
Hagerstown, MD 21742

Appeal No. AP2007-090

Appellants

OPINION

This action is a request for a variance from the minimum 14' front yard setback to 10' for replacement of a mobile home. The subject property is located at 11921 Sun Valley Drive, Hagerstown, MD, 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. The Appellants wish to replace a mobile home at the same location on the subject property.
2. There will be no greater encroachment by the new mobile home into the setback areas than there was with the previous mobile home.
3. The lower part of the lot is in the flood zone.
4. Other houses in the same neighborhood also sit similarly close to the street.
5. If a lesser setback than that requested is required, the mobile home will have to sit further above the ground.
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 size and shape of this lot make it unique amongst others in the neighborhood and necessitate this variance. The Appellant is replacing a prior structure, and no greater encroachment will be created by the proposed use. No lesser variance will provide appropriate relief, and no opposition was presented to this appeal. 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 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, and its granting upholds the spirit of the Ordinance. 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