

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

DAVID W. & KENDRA J. HINES, SR.
17825 Lappans Road
Fairplay, MD 21740

Appeal No. AP2007-091

Appellants

OPINION

This action is a request for a variance from the minimum 48' rear yard setback established under AP93-058 to 15' for a 25'x68' modular addition attached to an existing dwelling with an open breezeway. The subject property is located at 17825 Lappans Road, Fairplay, MD 21740, is owned by the Appellants, and is zoned Agricultural (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 add an addition to their residence for use by Appellants' mother.
2. The size and shape of the lot and the layout and location of the existing house necessitate this variance relief.
3. Appellants' neighbors do not object to the requested relief.
4. Heavy vegetation will provide screening for the addition.
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, and the size and shape of the lot, necessitate this variance relief. 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. The addition will be buffered by existing vegetative screening. 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