

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

ROBERT G. BUCKLEY
11934 Big Spring Road
Clear Spring, MD 21722

Appeal No. AP2007-092

Appellant

OPINION

This action is a request for a variance from the required 34' rear yard setback established under AP2007-074 to 31' for the construction of a 16' x 18' sunroom. The subject property is located at 11934 Big Spring Road, Clear Spring, MD 21722, is owned by the Appellant, and is zoned Agricultural (Rural).

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. The Appellant wishes to build a 16' x 18' sunroom.
2. This case was before us as AP2007-074; due to a math error, the Appellant applied for the wrong setback variance in the prior appeal.
3. 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. In this appeal, an existing home already encroaches into the setback more than the proposed sunroom addition will. The property's shape and size, the placement of the existing home thereon, and the presence of extensive rock outcroppings 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 adding to his dwelling (which predates adoption of zoning), and a lesser variance would not give the Appellant appropriate relief. For these reasons, we believe that granting this variance observes the spirit of the Ordinance. Appellant's mathematical error does not alter this analysis.

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