

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

DAVID & CHRISTA LONG
15716 Spade Road
Hagerstown, MD 21740

Appeal No. AP2007-094

Appellants

OPINION

This action is a request for a variance from the required 50' rear yard setback to 34' for the enclosure of an existing deck and the construction of a 14'x14' octagon deck extension. The subject property is located at 15716 Spade Road, Hagerstown, MD, is owned by the Appellants, and is zoned Environmental Conservation.

A public hearing was held before a full Board on November 14, 2007. The Appellants offered evidence and testimony in support of the appeal. No opposition was presented to this appeal.

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 enclose an existing deck and add a 14'x14' octagon-shaped deck addition to their residence.
2. The size and shape of the lot, and the placement of the existing septic field thereon, limits the potential sites for the deck addition.
3. Appellants' neighbors have no objection to this appeal.

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 that strict compliance with the Ordinance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome. The proposed deck will not be obtrusive or incompatible with the neighborhood. Decks are a natural and commonplace accessory use to a residence. No evidence was presented that showed 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. Therefore, it appears to us that the grant of this variance upholds the spirit of the Ordinance and does not harm the public safety or welfare.

Based upon all of the testimony and evidence presented, this Board finds that the requested relief will not have an adverse effect upon the public health, safety, security, morals or general welfare, nor would it result in dangerous traffic conditions or jeopardize the lives or property of people living in the neighborhood. Accordingly, for the reasons set forth herein, this appeal is hereby GRANTED this 13th day of December, 2007.

BOARD OF APPEALS

By: Bert Iseminger, Chair