

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

KEITH L. GRIMM
16403 Leon Grimm Drive
Hagerstown, MD 21740

Appeal No. AP2007-096

Appellant

OPINION

This action is a request for a variance from the minimum 100' left side yard setback to 15' for the construction of a 30'x40' three-car garage. The subject property is located at 16403 Leon Grimm Drive, Hagerstown, MD, is owned by the Appellants, and is zoned Rural Business - Existing.

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. Appellant seeks to construct a 30'x40' three-car garage on the subject property.
2. The subject property was part of the comprehensive rural area rezoning of 1995 when it was classified as Rural Business - Existing.
3. During the rezoning process, a subdivision occurred which created the subject lot on which Appellant's residence sits. This newly-created parcel residential retained the RB-E designation; it probably should have been zoned Agricultural, which would have mandated 15' setbacks and obviated the need for variance relief.
4. Appellant's neighbors are his relatives and have no objection to this request.

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 Appellant has met his 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 garage will not be obtrusive or incompatible with the neighborhood and is a natural and commonplace accessory use to a residence. This request arises due to an apparent error in the zoning designation of the parcel. Were it correctly zoned, no variance would be needed, as the correct zone would have mandated a 15' setback as proposed herein. 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