

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

OSCAR HALL
6775 Dam #4 Road
Sharpsburg, MD 21782

Appeal No. AP2007-097

Appellants

OPINION

This action is an appeal of the Planning Commission's determination that a one-lot subdivision without public road frontage be denied. The subject property is located at 6775 Dam #4 Road, Sharpsburg, MD, is owned by the Appellant, and is zoned Environmental Conservation.

A public hearing was held before a full Board on November 28, 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. The subject property is 29.5 acres in area.
2. Appellant seeks to subdivide a 3-acre lot and convey it to his daughter, who now resides in a mobile home on the property.
3. The lot will be served by a deeded right-of-way.
4. The entire 29.5 acre property was landlocked, but a property acquisition has provided, or will provide, access to a public road.
5. Concerns regarding sight distance and emergency vehicle access will be addressed by the Appellant; he will clear existing brush to improve sight distance and will improve the condition of the lane.
6. No one testified in opposition to this appeal.

RATIONALE

Section 405.11.B of the Subdivision Ordinance for Washington County, Maryland, states, in pertinent part, that "Every lot shall abut a minimum of twenty-five (25) feet, and shall have access to a road or street that has been dedicated to public use and accepted for public maintenance...." Certain exceptions are allowed for transfers to immediate family members of the developer under certain conditions. *See* §405.11.B.1. When "extraordinary hardships may result from strict compliance with these regulations, or that existing topographic conditions or irregular shape of the property warrants a variance from these regulations, . . ." the Board ". . . may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of these regulations." §107.

In the instant appeal, Appellant seeks approval to subdivide a property without access to a public road save via a shared right-of-way . Appellant will convey the created lot to his daughter, who already resides in a mobile home on the subject property. Thus, allowing this subdivision to occur will have no material impact on traffic volume or on the use of the property. The proposed use is not 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. Rather, granting this request is likely to improve the general circumstances in the area, as Appellant will improve the condition of the existing lane and enhance sight distances along the public road. No opposition was presented to this appeal, and no other boundary line configuration will obviate the need for this modification.

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 14th day of December, 2007.

BOARD OF APPEALS
By: Bert Iseminger, Chair