

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

RONNIE GRAY
3379 Harpers Ferry Road
Sharpsburg, MD 21782

Appeal No. AP2007-098

Appellant

OPINION

This action is a request for a variance from the maximum density limit of one dwelling unit per 30 acres to one dwelling unit per 2.6 acres for the creation of a one-lot subdivision. The subject property is located at 3379 Harpers Ferry Road, Sharpsburg, MD, is owned by the Appellant, and is zoned Preservation.

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. Appellant seeks to create a new 2.6-acre lot on which he will build a residence.
2. The subject property has existed in its current shape and 4.6-acre size since the early 20th Century.
3. Appellant owns a landlocked 40-acre parcel to the north, which he prefers to keep undeveloped.
4. The proposed density will be consistent with the rural residential cluster in which it is located; that cluster has an existing density of one dwelling per 2.7 acres.
5. No opposition was presented 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).

In the instant case, Appellant seeks to create a 2.6 acre parcel on which to build a residence. The newly-created lot and its residential use will be compatible with the use and density of the existing residential cluster which surrounds it. Moreover, had the subject property been 1.4 acres larger, it would have qualified for an exemption lot under the Ordinance. In short, the evidence showed that the proposed use was compatible with the neighborhood; not disruptive of neighbors' quiet enjoyment of their properties; not detrimental to surrounding property values; not generative of excessive odors, dust, gas, smoke, fumes, vibrations, or glare; not generative of traffic that would exceed the capacity of existing infrastructure; and that the proposal was an appropriate use of land. No opposition was presented to this request.

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. For all of the foregoing reasons, the grant of the relief requested advances the spirit of the Ordinance. 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