

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

CHARLES BURLESON  
21018 Miller's Church Road  
Hagerstown, MD 21742

Appeal No. AP2007-103

Appellant

OPINION

This action is an appeal for a variance from a minimum 40' front yard setback to 23'6" for the placement of a 12'x20' existing shed. The subject property is located at 21018 Miller's Church Road, Hagerstown, MD 21742, is owned by the Appellant, and is zoned Agricultural Rural.

A public hearing was held before a full Board on January 2, 2008. The Appellant 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 permission to allow placement of a 12'x20' shed on the subject property 23'6" from the front yard property line.
2. The subject property is irregularly shaped.
3. The property's trees, slopes, and existing septic reserve area limit suitable sites for placement of the shed, thus making the site proposed the most practical and aesthetically-pleasing choice.
4. Natural screening will provide a buffer to the proposed accessory use of the property.
5. No opposition was presented 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 proposed use is a reasonable and permitted use of the property, which strict adherence to the setback requirements would prevent for without resultant benefit. The property's shape and size, existing trees, and the placement of existing improvements thereon, including the septic reserve area, necessitate this variance, and the proposed location is the best location, practically and aesthetically, for the structure given these factors. Given these factors, a lesser relaxation is of no value. No neighbors testified in opposition to the proposal, and no evidence was presented 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. For these reasons, we conclude that the grant of this variance upholds the spirit of the Ordinance; no detriment to the public safety or welfare is reasonably foreseen.

Based upon all of the testimony and evidence presented, this Board finds that the requested change and expansion of non-conforming use 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 1<sup>st</sup> day of February, 2008.

BOARD OF APPEALS

By: Bert Iseminger, Chair