

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

SCOTT & STEPHANIE OBITTS
18858 Burnside Bridge Road
Sharpsburg, MD 21782
Appellants

Appeal No. AP2007-107

OPINION

This action is a request for a variance from the minimum 40' front yard setback to 5' for an existing 12'x16' deck. The subject property is located at 18858 Burnside Bridge Road, Sharpsburg, MD 21783, is owned by the Appellants, and is zoned Preservation.

A public hearing was held before the Board on January 16, 2008. 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 replaced a former deck with the 12'x16' deck that is the subject of this action.
2. The subject lot is a corner lot and is irregularly shaped.
3. The location for the deck is the best placement available given the shape of the lot and the layout of the existing home.
4. 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 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 deck will not be obtrusive or incompatible with the neighborhood. Decks are a natural and commonplace accessory use to a residence, and no evidence was suggested to show 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 15th day of January, 2008.

BOARD OF APPEALS

By: Bert Iseminger, Chair