

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

MELISSA HOOVER
10920 Oak Forest Circle
Hagerstown, MD 21740
Appellant

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Appeal No. AP2008-013

OPINION

This action is a request for a variance from the 30' rear yard setback to 23' for the construction of a 25'x37'8" addition to an existing dwelling. The subject property is located at 10920 Oak Forest Circle, Hagerstown, MD 21740, is owned by the Appellant, and is zoned Residential Urban.

A public hearing was held before the Board on March 12, 2008. The Appellant offered evidence and testimony in support of the appeal. No opposition was presented to the 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 construct a 25'x37'8" addition to an existing dwelling.
2. The size and narrowness of the property, its shape, and its topography necessitate this variance and prevent enlargement of the house by way of a 2nd-story addition.
3. An existing garage/shed will be removed from the property.
4. Only the corner of the addition will encroach into the setback area.
5. Appellant's neighbors have no objection 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. The property's shape and size and the placement of the existing home thereon necessitate this variance, as the proposed location is the best location for the structure given these factors. The topography of the property prevents enlargement of the house by addition of a 2nd story. Strict compliance with the setback requirements would prevent the Appellant from constructing this addition, and a lesser variance would not give the Appellant appropriate relief. This situation is not a result of Appellant's actions. 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. We note that only the corner of the proposed addition will encroach into the setback area. For these reasons, we believe that granting this variance observes the spirit of the Ordinance.

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. Accordingly, for the reasons set forth herein, this appeal is hereby GRANTED this 11th day of April, 2008.

BOARD OF APPEALS
By: Bert Iseminger, Chair