

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

JOSEPH CHANEY
13138 Draper Road
Clear Spring, Maryland
Appellant

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Appeal No. AP2008-014

OPINION

This action is an appeal from the Planning Commission's determination that a two-lot subdivision without public road frontage be denied. The subject property is located at 13138 Draper Road, Clear Spring, Maryland, is owned by the Appellant, and is zoned Environmental Conservation.

A public hearing was held before the Board on March 26, 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 proposes the creation of two 2.81-acre lots to be improved with dwellings for his sons.
2. Appellant has never subdivided the property prior to this request.
3. The original property is 18.71 acres in area and has only 135' of road frontage.
4. The new lots will be served by a shared right-of-way over Appellant's land.
5. The existing garage on the property needs to remain with the existing house after subdivision because Appellant operates a business from the premises. This situation creates the need for the shared driveway.

6. Sensitive environmental areas on the property further constrain possible locations for the driveway.

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 sons for their residences. The original parcel is nearly 19 acres in size, but has only 135’ of road frontage. 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. No opposition was presented to this appeal, and no other boundary line configuration will obviate the need for this modification. Given these factors, we are confident that granting this relief is warranted by the shape and size of the property, relieves an extraordinary hardship, and does not nullify the intent 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 WITH CONDITIONS AS SET FORTH BELOW this 25th day of April, 2008.

Conditions

Further subdivision of the original parcel or the newly-created parcels is prohibited.

BOARD OF APPEALS

By: Bert Iseminger, Chair