

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

ANNE B. EDELEN
17028 SNYDERS LANDING ROAD
SHARPSBURG, MD 21782
Appellant

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Appeal No. AP2008-022

OPINION

This action is a request for a variance from the required minimum 50' rear yard setback to 10' for the construction of a single-family dwelling. The subject property is located at 17028 Snyders Landing Road, Sharpsburg, Maryland, is owned by the Appellant, and is zoned Preservation.

A public hearing was held before the Board on May 7, 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 to construct a single-family dwelling on the subject property.
2. The subject property largely lies within the floodplain and is adjacent to the Potomac River.
3. The property slopes uphill and away from the river.
4. An existing cabin on the property is beyond repair and will be removed. The proposed house will replace the cabin.
5. No one testified in opposition 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).

The proposed use is a reasonable and permitted use of the property. The property's topography and the existing floodplain necessitate this variance. Strict compliance with the setback requirements would impose a practical difficulty upon Appellant, as floodplain regulations would require a dwelling with a 15' high basement, thus causing Appellant to incur great additional costs. A lesser variance would not give the Appellant appropriate relief due to the existence of the floodplain and the property's grade. This situation is not a result of Appellant's actions, and Appellant's neighbor has no objection to this request. 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 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 5th day of May, 2008.

BOARD OF APPEALS
By: Bert Iseminger, Chair