

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

VINCENT P. SMITH
16032 National Pike
Hagerstown, Maryland 21740
Appellant

*
*
*
*

Appeal No. AP2008-023

OPINION

This action is a request for a variance from the minimum 100' setback to 13' on the right side and 85' on the left side from an existing structure proposed to house five to eight farm animals. The subject property is located at 16032 National Pike, Hagerstown, Maryland, is owned by the Appellant, and is zoned Environmental Conservation.

A public hearing was held before the Board on May 21, 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 house five to eight animals in an existing structure on the subject property.
2. Appellant now boards three horses on the property.
3. The property is long and narrow, partially necessitating the need for this variance.
4. Appellant's most-affected neighbor supports the grant of this variance.
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).

Appellant's proposal is a reasonable use of the subject property and is consistent with the Comprehensive Plan. Appellant will use an existing structure to house the animals, so requiring strict compliance is unnecessarily burdensome and impractical. Moreover, the size and shape of the lot, and the location of the existing structure thereon, necessitate this variance. 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. Therefore, we feel that the grant of this request advances the spirit and purpose 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 19th day of June, 2008.

BOARD OF APPEALS

By: Bert Iseminger, Chair