

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

TERRY L. HILL
15813 Broadfording Road
Clear Spring, MD
Appellant

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Appeal No. AP2008-030

OPINION

This action is a request for a variance from the 15' minimum right side yard setback to 4' for the construction of a garage/pole barn. The subject property is located at 15813 Broadfording Road, Clear Spring, Maryland, is owned by the Appellant, and is zoned Agricultural (Rural).

A public hearing was held before the Board on June 18, 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 construction of a 30'x64' garage/pole barn on the subject property.
2. The garage/barn will be used for vehicle maintenance and hobby activities; no commercial business will be conducted therein.
3. The property is uniquely shaped.
4. The size and shape of the property and the location of the driveway and other improvements make the proposed site the most appropriate place for the building.
5. Appellant's neighbors do not object to this appeal, and no one testified in opposition to this request.
6. The Engineering Department advised that an 8' setback is the standard side yard easement for County drainage and utility purposes, and no features of the site preclude maintenance of an 8' easement.

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 accessory use of the property. The property's shape and size and the placement of the structures thereon necessitate this variance, as the proposed location is the best location for the structure given these factors. 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. It does appear, however, that a lesser relaxation will still afford Appellant substantial relief while alleviating the concerns of the Engineering Department. Thus, grant of this variance shall be for an 8' setback, not 4' as requested.

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 FOR AN 8' RIGHT SIDE YARD SETBACK WITH CONDITIONS AS SET FORTH BELOW this 17th day of July, 2008.

Conditions

1. No encroachment is allowed onto the existing 8' drainage and utility easement.

BOARD OF APPEALS

By: Bert Iseminger, Chair