

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

ROBERTA L. ROTHEN, TRUSTEE  
20310 Ayoub Lane  
Hagerstown, MD 21740  
Appellant

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Appeal No. AP2008-031

OPINION

This action is a request for a variance from the minimum 50' rear yard setback to 4.9' for the construction of a garage addition to an existing dwelling. The subject property is located at 20310 Ayoub Lane, Hagerstown, Maryland, is owned by the Appellant, and is zoned Agricultural.

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 garage and living space addition to her existing dwelling.
2. Mature vegetation will provide screening for the addition.
3. Appellant owns 3 lots, creating a curved and relatively narrow parcel.
4. The layout of the existing house necessitates placement of the addition as proposed.
5. Covenants on the property require the garage to be connected to the house.
6. The homeowners' association has no objection to this proposal, and 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 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. Strict compliance with the setback requirements would prevent the Appellant from constructing this addition. 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 the most-affected parcel is a strip of land used by the power company for access to its substation. For these reasons, we believe that granting this variance observes the spirit of the Ordinance. However, we do believe that a lesser relaxation will still afford Appellant substantial relief, and so we will reduce the grant of this variance to 8'.

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 17<sup>th</sup> day of July, 2008.

### *Conditions*

1. An 8' setback shall be maintained from rear property line.

BOARD OF APPEALS

By: Bert Iseminger, Chair