

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

BRYAN K. STOUFFER
18021 Showalter Road
Maugansville, MD 21767
Appellant

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Appeal No. AP2008-033

OPINION

This action is a request for a variance from the 15' minimum right side yard setback to 7' for an existing storage building from a new lot line of a proposed subdivision. The subject property is located at 14510 Mercersburg Road, Clear Spring, Maryland, is owned by the Audrey Weller, and is zoned Environmental Conservation.

A public hearing was held before the Board on July 16, 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 seeks permission to allow an existing storage building to remain on the subject property.
2. A proposed subdivision of the original parcel creates the need for this variance, as the new line of division will result in the existing shed's encroachment into the proscribed setback area.
3. Sight distance issues require subdividing the property as proposed, thus creating the need for this variance.
4. The newly-created parcel will be served with its own driveway, and there will be no difficulty for emergency vehicle access.
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 shape and size and the placement of the existing structure thereon necessitate this variance, as well as sight distance difficulties that mandate subdivision of the property as proposed. Strict compliance with the setback requirements would either prevent subdivision of the property or require the demolition and relocation of the existing structure for no practical benefit. 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 by a vote of 5-0 this 14th day of August, 2008.

BOARD OF APPEALS

By: Bert Iseminger, Chair