

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

CURTIS CLINE
11919 Hanging Rock Road
Clear Spring, MD 21722
Appellant

*
*
*
*

Appeal No. AP2008-036

OPINION

This action is a request for a variance from the 50' minimum rear yard setback to 35' for the construction of a 30'x15' covered rear porch. The subject property is located at 11919 Hanging Rock Road, Clear Spring, Maryland, is owned by the Appellant, and is zoned Environmental Conservation.

A public hearing was held before the Board on July 30, 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 add a 30'x15' covered rear porch to his existing residence.
2. The shape and size of the lot, the placement of existing structures thereon, and the expanse of the septic reserve area necessitate placement of the porch as proposed herein, and hence, the requested variance.
3. A mature stand of trees on the subject property further limits placement options for the porch.
4. The subject property is 1.08 acres in area.
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 Appellant has met his burden of demonstrating that strict compliance with the Ordinance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome. The porch will not be obtrusive or incompatible with the neighborhood. Covered porches are a natural and commonplace accessory use to a residence, and no evidence was suggested to show 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, it appears to us that the grant of this variance upholds the spirit of the Ordinance and does not harm the public safety or welfare. Furthermore, we note that this variance is necessitated by the unique features of the lot and its improvements.

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 28th day of August, 2008.

BOARD OF APPEALS

By: Bert Iseminger, Chair