

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

RONALD WESTURN
Appellant

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Appeal No. AP2008-045

OPINION

This action is a request for a variance from the minimum 40' front yard setback to 8' for the construction of a 24'x32' detached garage. The subject property is located at 13641 Blairs Valley Road, Clear Spring, Maryland, is owned by the Appellant, and is zoned Environmental Conservation.

A public hearing was held before the Board on September 10, 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 24'x32' detached garage on the subject property.
2. The garage will be at the same location where Appellant now parks his vehicle(s).
3. The topography of the property and the adjacent road create sight distance issues, so the current entrance to the property best promotes public safety.
4. The encroachment of the garage into the setback will not be greater than any other encroachment by the existing residence.
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 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. Moreover, the topography of the property and adjacent road and the location of the driveway further demand placement of the garage as proposed. A lesser variance would not give the Appellant adequate relief. 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 this 9th day of October, 2008.

BOARD OF APPEALS
By: Bert Iseminger, Chair