

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

GARY JONES
Appellant

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Appeal No. AP2008-064

OPINION

This action is a request for a variance from the minimum 15' left side yard setback to 9' for the construction of a 30'x40' two-car garage. The subject property is located at 18501 Herman Myers Road, Hagerstown, Maryland, is owned by the Appellant, and is zoned Agricultural (Rural).

A public hearing was held before the Board on December 3, 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'x40' two-car garage addition to his residence.
2. The garage will be used for personal vehicle storage only.
3. Appellant's parents are the most-affected neighbors.
4. No one has voiced any opposition to the proposed garage.
5. The size and shape of the lot, and improvements located thereon, necessitate this variance.

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 location 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.

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 5-0 vote.

Issued January 9, 2009.

BOARD OF APPEALS
By: Bert Iseminger, Chair