

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

THOMAS J. BOWERS  
Appellant

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Appeal No. AP2008-065

OPINION

This action is a request for a variance from the minimum 8' right side yard setback to 6.2' for the construction of an attached garage. The subject property is located at 11343 Greenberry Road, Hagerstown, Maryland, is owned by the Appellant, and is zoned Residential Urban.

A public hearing was held before the Board on December 17, 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 an attached garage to replace a carport at his residence.
2. Appellant has owned the property for about 50 years.
3. The lot is irregularly shaped, necessitating this variance.
4. Only the rear corner of the garage encroaches into the setback.

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. Furthermore, the encroachment is slight, occurring only at the rear corner of the garage, due to the angle of the property line. 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 16, 2009.

BOARD OF APPEALS  
By: Bert Iseminger, Chair