

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

ROBERT J. TONETTI
Appellant

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Appeal No. AP2009-004

OPINION

This action is a request for a variance from the minimum 40' front yard setback to 6' for the construction of an agricultural building. The subject property is located at 19743 Marble Quarry Road, Keedysville, Maryland, is owned by the Appellant, and is zoned Preservation.

A public hearing was held before the Board on February 18, 2009. The Appellant offered evidence and testimony in support of the appeal. No one testified in opposition to the 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 to construct a 26'x40' farm shop/storage building on the subject 7.4-acre property.
2. The house and other structures were built in 1904 and are very close to the road.
3. About 2 years ago, the County took some land for the road's right-of-way.
4. The size, shape, and topography of the lot necessitate placement of the building as proposed herein.
5. Appellant's neighbors have no objections to this appeal.

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, topography, and size and the placement of the existing structures thereon necessitate this variance. Strict compliance with the setback requirements would not provide any real benefits beyond cheap conformity with the Ordinance. 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 5-0 vote.

BOARD OF APPEALS
By: Bert Iseminger, Chair

Issued: March 20, 2009