

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

RICHARD & SHIRL WILSON
Appellants

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Appeal No. AP2009-009

OPINION

This action is a request for a variance from the minimum 25' rear yard property line to 19.7' for a two-story addition under construction. The subject property is located at 1226 Weverton Road, Knoxville, Maryland, is owned by the Appellants, and is zoned Rural Village.

A public hearing was held before the Board on March 4, 2009. The Appellants 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. Appellants are construction a two-story addition to their existing residence that is already nearing completion and is encroaching into the rear yard setback.
2. The property is unique in that it is unusually shaped and dissected by a public water line.
3. Only the corner of the addition encroaches into the setback area.
4. 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 use of the property. The property's shape and size, the placement of the existing home, and the lot's dissection by a public water line necessitate this variance. Strict compliance with the setback requirements would prevent the Appellant from constructing this addition and provide no benefits to the health, safety, and welfare of the public. 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: April 3, 2009