BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

NORMA J. KEEFER	*	**Appeal No. AP2009-026**
Appellant	*	
	*	
	*	

OPINION

This action is a request for a variance from the 15′ right side yard setback to 0′ from an existing block garage and framed shed to a new dividing property line for a two-lot subdivision. The subject property is located at 14943 Tollgate Ridge Road, Hancock, Maryland, is owned by the Appellant, and is zoned Environmental Conservation.

A public hearing was held before the Board on May 27, 2009. 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 subdivision of the subject parcel into two lots.

2. Proposed Lot K1 has an existing house situated thereon.

3. Proposed Lot K2 will have a mobile home located thereon.

4. This property has a somewhat convoluted history (see Memorandum of Kathy A. Kroboth, Zoning Coordinator, dated May 11, 2009) and this request will, if granted, bring greater conformity to the newly-created lots.

5. Proposed Lot K2 is a panhandle lot.

6. 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).

Appellant's proposed use is a reasonable use of the subject property. Strict compliance is unnecessarily burdensome and impractical given the size and shape of the property and the location of existing structures thereon. This request is meant to conform existing conditions of the property to the requirements of the Ordinance as nearly as possible, given the unique characteristics of the property and the location of existing improvements. 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. Failing to grant this variance would serve no public purpose, and it would deny Appellant a reasonable use of the property. As the proposal does not engender any opposition from Appellant's neighbors, we feel that the grant of this request advances the spirit and purpose of 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. 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 vote of 5–0 with the condition set forth below.

Condition

1. The subject approval is conditioned upon satisfaction of/compliance with those

comments set forth in the Memorandum to this Board dated May 27, 2009, from Mark Stransky, Plan Reviewer, Land Development Engineering Department.

BOARD OF APPEALS
By: Bert Iseminger, Chair

Date Issued: June 26, 2009