

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

TERRANCE FOOR
Appellant

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Appeal No. AP2009-027

OPINION

This action is a request for a variance from the minimum 40' front yard setback to 22' from a future street right-of-way as shown on Plat No. 5775 for the construction of a 15'x19' screened porch. The subject property is located at 11731 Meadowlark Avenue, Hagerstown, Maryland, is owned by the Appellant, and is zoned Residential Rural.

A public hearing was held before the Board on June 10, 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 to remove an existing porch and replace it with a 15'x19' screened porch.
2. Appellant has 50' of space between him and his neighbor.
3. There was to be a street built in the right-of-way, but that intention seems to have been abandoned.
4. The proposed location is most appropriate given the layout of the existing home.
5. 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. Strict compliance is unnecessarily burdensome and impractical given the size and shape of the lot and the location of existing structures thereon. 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 and customary accessory use to his dwelling. As the proposal does not engender any opposition from Appellant's neighbors and the proposed placement of the structure is the most logical given the features of the lot, we feel that the grant of this request advances the spirit and purpose 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.

BOARD OF APPEALS

By: Bert Iseminger, Chair

Date Issued: July 10, 2009.