

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

NATHAN BURKHOLDER
Appellant

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Appeal No. AP2009-51

OPINION

This action is a request for a variance from the 15' rear yard setback to 2' and from the 15' left side yard setback to 4' for the construction of a storage shed. The subject property is located at 106 E. High Street, Sharpsburg, Maryland, is owned by the Appellant, and is zoned Preservation.

A public hearing was held before the Board on September 30, 2009. 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 erection of a 17'x33' storage building to the rear of the subject property.
2. An existing lean-to structure will be removed from the same location.
3. The topography of the property, its size and shape, and the location of other structures thereon necessitate this variance.
4. A field is located to the rear of the property, so the impact of the encroachment will be minimal.
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 accessory use of the subject property. Strict compliance is unnecessarily burdensome and impractical given the size and shape of the property, its topography, and the location of existing structures thereon. The new structure will be at the approximate location of an old structure that will be removed. 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.

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

Date Issued: October 30, 2009