

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

DAVID WALLACE  
Appellant

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Appeal No. AP2009-056

OPINION

This action is a request for a special exception to allow two additional dwelling units in an accessory structure on a parcel improved with a single family dwelling and for variances from the density limit of one dwelling unit per 20 acres to one dwelling unit per 1.08 acres and from the minimum 40' front yard setback to 30' for the accessory structure. The subject property is located at 24727 Hells Delight Road, Sabillasville, Maryland, is owned by the Appellant, and is zoned Environmental Conservation.

A public hearing was held before the Board on October 28, 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 creation of two dwelling units in an existing accessory structure (a two-story, 30'x50' detached garage) on the subject 4.09 acre property.
2. Appellant's primary dwelling is on the subject property.
3. Appellant is creating these additional dwelling units for his two daughters and their families, who have lost their homes during the recent foreclosure crisis.
4. Appellant has no plans to rent the units to anyone else should his daughters eventually vacate.
5. Appellant's neighbors have no objection to this request.

## RATIONALE

The Board has authority to grant a special exception pursuant to Section 25.2(b) of the Zoning Ordinance for Washington County, Maryland. A special exception is defined as “a grant of a specific use that would not be appropriate generally or without restriction; and shall be based upon a finding that the use conforms to the plan and is compatible with the existing neighborhood.” Section 28.62. A variance may be granted upon a showing of practical difficulty or undue hardship. Sections 25.2(c) and 25.56. “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).

In this matter, we find that the Appellant has met his burden for both the special exception and the variance. The subject property is of adequate size to support the conversion of the existing detached garage into dwelling units, and it will be occupied by Appellant’s daughters and their families. The Zoning Coordinator has opined that the proposed exception is compatible with the Comprehensive Plan, and we have found that the proposed use would not be incompatible with the surrounding neighborhood. Traffic generation will not be overly burdensome, and Appellant’s neighbors do not object to this request. 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 upon conditions set forth below.

### *Condition*

1. The additional dwelling units shall only be occupied by immediate family members of the Appellant and shall not be used for rental purposes.
2. No work shall be performed on any vehicles in the accessory structure unless

and until the structure meets all applicable building codes.

3. Appellant shall remove existing shrubbery to improve sight distance at the driveway pursuant to the direction of the Land Development Engineering Department.

BOARD OF APPEALS

By: Bert Iseminger, Chair

Date Issued: November 25, 2009