

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

JONATHAN KING  
Appellant

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Appeal No. AP2009-065

OPINION

This action is a request for a variance from the required 100' front yard setback to 26' from an existing structure proposed to house animals. The subject property is located at 20106 Hogmaw Road, Keedysville, Maryland, is owned by the Appellant, and is zoned Rural Village. A public hearing was held before the Board on December 16, 2009.

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. The Appellant proposes to convert a 40'x60' workshop (previously used as a gym) to a barn for the housing of animals.
2. The building is 26' from the road.
3. The building will have stalls for four sows and a boar hog, and will be properly ventilated.
4. The hogs will be kept inside at all times.
5. Offspring will be sold at auction and not raised onsite.
6. The Appellant has an approved nutrient and waste management plan.
7. William Dodson, Appellant's neighbor, has no objection to this proposal given that only five hogs will be kept on the property, and they will be kept inside.

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 Appellant's proposal is a reasonable accessory use of the subject property and is consistent with the Comprehensive Plan. The property is of adequate size to support the proposed use, and traffic volume will not be affected. Moreover, the size and shape of the property and the location of the existing structure thereon necessitate this variance. 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. The run-in shed is an existing structure on the property, cannot be moved, and has been located as placed for a significant length of time. For all of these reasons, 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: January 15, 2010