

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

TRACEY PEYTON
Appellant

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Appeal No. AP2009-066

OPINION

This action is a request for a variance from the required 8' right side yard setback to 3' for the construction of a residential garage. The subject property is located at 11420 Longview Drive, Hagerstown, Maryland, is owned by the Appellant, and is zoned Residential Urban.

A public hearing was held before the Board on December 16, 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 replacement of an enclosed carport with a two-car attached garage.
2. No yard area will be lost, as the new garage will be built over existing concrete and asphalt.
3. The proposed garage will be architecturally compatible with the existing dwelling and will keep with the character of the neighborhood.
4. No opposition was presented 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).

The proposed garage is a reasonable and permitted use of the property. The property's shape and size and the location of the existing home thereon necessitate this variance, as the proposed location is the best location for the structure given these factors. No yard area will be lost. Strict compliance with the setback requirements would prevent the Appellant from constructing this addition. Furthermore, the encroachment is slight, occurring only at the rear corner of the garage, due to the angle of the property line. 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 5-0 vote.

BOARD OF APPEALS
By: Bert Iseminger, Chair

Date Issued: January 15, 2010