

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

JAY & MARIAM MARTIN  
Appellants

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Appeal No. AP2009-070

OPINION

This action is a request for a variance from the minimum 15' rear yard setback to 5' for the construction of a residential woodworking shop. The subject property is located at 20504 Leitersburg Pike, Hagerstown, Maryland, is owned by the Appellant, and is zoned Agricultural (Rural).

A public hearing was held before the Board on January 27, 2010. 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 construction of a 28'x40' residential woodworking shop.
2. The shop will not be used for commercial purposes.
3. The size and shape of the lot and the location of the well and septic system thereon necessitate this variance.
4. The dwelling on the subject property was constructed prior to the adoption of zoning in Washington County.
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 and permitted accessory use of the property. Strict compliance is unnecessarily burdensome and impractical given the size and shape of the lot, its topography, and the location and layout of the existing dwelling 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 accessory use to his dwelling. 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. Therefore, 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.

BOARD OF APPEALS  
By: Bert Iseminger, Chair

Date Issued: February 26, 2010