

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

ROY TARMON  
Appellant

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Appeal No. AP2010-001

OPINION

This action is a request for a variance from the 100' minimum left side yard setback to 13' for an existing structure used to house animals. The subject property is located at 2065 Hoffmaster Road, Knoxville, Maryland, is owned by the Appellant, and is zoned Environmental Conservation.

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 to house 15 pigs, 2 steers, and 20 chickens in an existing building on the subject 5.78-acre property.
2. Appellant has a waste management plan for the operation.
3. The building is a 21'x38' lean-to building in which Appellant has been housing animals for the past two or three years.
4. The animals are reared for the personal use of Appellant and his family.
5. Appellant's neighbors have no objection to this appeal, and 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).

Section 22.94(a) of the Ordinance requires that animal husbandry facilities (which create 6,000 tons or less of manure annually) be set back 100' from the property line. Here, a variance is sought for an existing structure now proposed to be used for the housing of some domestic animals. The property is of adequate size to support the proposed use, and traffic volume on the adjacent road will not be affected. Moreover, the size and shape of the lot and its topography 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. Moreover, denying Appellant the opportunity to use the existing structure would serve no practical purpose, as no objections were presented to this proposal. For all 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, this appeal is hereby GRANTED.

BOARD OF APPEALS

By: Bert Iseminger, Chair

Date Issued: February 26, 2010