

ALLEGANY COUNTY ZONING BOARD OF APPEALS

**IN RE:
APPLICATION OF
FRANK YANTZ
FOR A VARIANCE**

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**Case Number: 930
Hearing Date: 06-05-13**

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FINDINGS

This case came before the Allegany County Board of Zoning Appeals (the "Board") upon Frank Yantz's application for a variance to use one (1) foot of a C&P Railroad right of way on his property of 12799 Woodcock Hollow Road, NW, Mt. Savage, Maryland.

A field inspection of the subject property was conducted by Members of the Board on Thursday, May 30, 2013. The purpose of the field inspection was to familiarize the Board members with the site layout in order for them to develop an understanding as to where the proposed use would be located and as to whether the proposed use would be constructed in compliance with the ordinance.

At the hearing on June 5, 2013, the Board considered the exhibits (list attached) which consisted of information gathered by the Secretary of the Board and information provided by other agencies and individuals.

The Board considered the testimony presented at the hearing in order to ascertain whether the proposed variance would meet the standards and criteria of the zoning ordinance. The Board's findings are as follows:

1. The subject property is 600 feet west of Woodcock Hollow Road, on the north side of a C&P Railroad right of way, and south of Jennings Run, Mt. Savage, Maryland. The Applicant is Frank Yantz, the owner of record of the property, who plans to place a mobile home on the property for personal use. The mobile home will replace an old mobile home currently on the same site. The Applicant is requesting a variance to use one (1) foot of a C&P Railroad right of way for placement of the mobile home, which is larger than the one currently located on the property.

2. That to grant a variance in this matter, the property must be unique and unusual and in a manner different from the neighboring property owners and this uniqueness must cause the current zoning provision to have a disproportionate impact on the property. Evidence presented indicated to the Board that due to the property's location in relation to the flood plain as well as an existing embankment on the property, the mobile home could not be placed at any other location on the property. The impact of requiring the Applicant to be bound by the terms of the existing right of way would be disproportionate to other neighboring landowners whose properties are unaffected by the flood plain limitations. The Board also recognizes that this flood plain location was unique to this specific piece of property.

3. That due to the unique nature of the property, the Applicant does suffer an undue hardship. The right of way is approximately sixty-six (66) feet wide and is not a county maintained right of way. Should a variance not be granted, approximately twenty (20) feet of fill dirt would be needed to make the property level for placement of the mobile home due to the embankment and flood plain. This would make proceeding with the project impractical and not cost effective with the practical effect being that the Applicant would be unable to make reasonable use of the property. As the reason behind the need for the variance is not self inflicted or man made and the fact that the variance would align with the overall intent of the zoning ordinance, the Board is in support of this request.

CONCLUSIONS

Based upon the findings set forth above, the Board voted at the conclusion of the hearing of June 5, 2013, 3-0 in favor of the Applicant's request for a variance to permit use of one (1) foot of the existing C&P Railroad right of way. As a condition to the granting of the Board's approval, the applicant will be required to comply with all other terms and criteria of the zoning ordinance at all times. The applicant must also obtain the approval of all State, County, and Municipal Agencies whose approvals are required for the conduct of the proposed use.

Attest:

BOARD OF ZONING APPEALS

A large, stylized handwritten signature in cursive, appearing to read "L. A. Smith", written over a horizontal line. A small closing parenthesis ")" is located to the right of the signature.

By: 
Julia Williams, Chairperson

Copies to:
See Attached List