



requirement as set out under Section 9.

3. Variance Request is From Development Standards of the Zoning Ordinance.

Section 2.2 limits variance requests to relief from requirements of the Zoning Ordinance governing development standards, including set-back requirements. Applicants' variance request, therefore, is in compliance with Section 2.2.

4. Ownership. The applicants are the owner of 501 Brown Street and are, therefore, in compliance with Section 12.2(a)(3).

5. Not Contrary to the Public Interest. In order to grant a variance, applicants must demonstrate that the variance, if granted, would not be contrary to the public interest. *See*, Section 12.2(a)(4). Applicants have provided a letter from the Washington Grove Historic Preservation Commission indicating that porches make a significant contribution to the quality of life in Washington Grove by providing an opportunity for residents to enjoy the unique physical setting in which Washington Grove is located. The Board, therefore, concludes that granting this variance would be in the public interest if the other criteria for granting a variance have been met.

6. Practical Difficulty. A variance cannot be granted unless the applicant demonstrates that complying with the zoning ordinance (i.e., in this case, the 15-foot rear-yard set-back) would be unnecessarily burdensome.<sup>2</sup> *See*, Section 12.2(a)(5). Applicants' architect, Ralph Hurst, testified that a 12 foot by 12 foot footprint for a screened porch is the minimum amount needed to allow convenient use of the porch by the residents of the property. The Board, therefore, finds that compliance with the 15-foot rear-yard set-back would be unnecessarily

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<sup>2</sup>Applicants' lot is in the RR-1 zone, and the rear-yard set-back requirement for a main building is 15 feet.

burdensome to applicants.

7. Extraordinary Characteristics. Applicants must demonstrate that the condition which forms the basis for granting the variance arises exclusively from the dimension, shape, topography, or other extraordinary characteristics of the lot. *See*, Section 12.2(a)(6). Applicants concede that their lot is virtually identical to the other lots along the north side of Brown Street in Block 36 of Ward's Addition to Washington Grove. Applicants have argued that their lot is unusual in that it faces an open field that is not part of the Town of Washington Grove. This fact does not arise exclusively from the dimension, shape, topography, or other extraordinary characteristics of applicants' lot. Accordingly, the Board concludes that applicants have failed to carry their burden of proof and persuasion that the variance request they make arises from the extraordinary characteristics of their property.

8. Uniqueness. The Board must find that the condition which forms the basis for granting the variance is peculiar to the lots in question and is not common to other lots in the vicinity. *See*, Section 12.2(a)(7). Applicants' property, which faces an open field that is not in the Town of Washington Grove, is virtually identical in shape, size, and topography to the other properties located along the northern side of Brown Street. Furthermore, it shares in all essential characteristics its view of the open field with properties along the western side of Ridge Road. Accordingly, the Board concludes that applicants have failed to carry their burden of proof and persuasion that their property is peculiar and the basis for granting the variance is not in common with other lots in the vicinity.

Because the Applicants have failed to carry their burden of proof and persuasion with respect to all of the criteria that the Board must find in order to grant a variance under Section

12.2, the Board resolves that Applicants' variance request is denied.

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Marc Hansen, Chair  
Board of Zoning Appeals

Date: \_\_\_\_\_

7-22-04 ?

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The Board of Zoning Appeals of Washington Grove  
Minutes

The Board of Zoning Appeals met on June 19, 2004, at 11:30 a.m. in the Town Hall to conduct a public hearing on the variance request of Shelley Winkler and David Stopak, 501 Brown Street, for a variance from the rear-yard set-back requirement of Section 9 of the Washington Grove Zoning Ordinance.

Christine Dibble, Charles Challstrom, and Marc Hansen sat as the Board.

After conducting a public hearing on the variance application of Shelley Winkler and David Stopak, the Board adopted, by unanimous consent, a resolution denying the variance application for the reasons set out in the attached Opinion and Order.

Respectfully submitted,

Marc Hansen, Chair  
Board of Zoning Appeals

Approved:

7/22/04  
Date