

**KNIGHTS OF COLUMBUS CLUB
20340 Leitersburg Pike
Hagerstown, MD 21742**

APPEAL NO. AP2006-085

Appellant

OPINION

This action is a request for a special exception to establish a storage yard for equipment and materials offered for sale on an adjacent property owned by Klein Reality LLC d/b/a Valley Supply, and for variances from the required 3 acres to 1.8 acres and from the 50 feet setback from all property lines to 20 feet for said storage yard. The subject property is located at 20340 Leitersburg Pike, Hagerstown, MD 21742, is owned by the Appellant, and is zoned Agricultural (Rural).

A public hearing was held before a full Board on July 19, 2006. Len McCardell offered evidence and testimony in support of the appeal. Neither opposing testimony nor evidence was presented to the Board.

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 leases 1.8 acres to Valley Supply, a neighboring business.
2. Properties to the left and right of the subject property are in commercial.
3. No new structures will be built, except for perimeter fences for storage of construction equipment.
4. The proposed use is consistent with the Plan and compatible with the existing neighborhood.

RATIONALE

The Board has authority to grant a special exception pursuant to Section 25.2(b) of the Zoning Ordinance for Washington County, Maryland. A special exception is defined as a grant of a specific use that would not be appropriate generally or without restriction; and shall be based upon a finding that the use conforms to the plan and is compatible with the existing neighborhood. Section 28.62. 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 has met its burden for the grant of both the special exception and variance. The subject property is bordered by commercial uses, one of which is the same use (by the same user) which is proposed herein. Therefore, it is apparent that the proposal is compatible with the existing neighborhood, and the special exception should be granted. The variance is necessitated by the size and shape of the property, both of which prevent strict compliance with the Ordinance. Given the unique circumstances presented by this appeal (i.e., where the proposed use is essentially a "spill-over" from the neighboring property), a lesser variance is impracticable and would fail to advance the intent or spirit 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 this 18th day of August, 2006.

By: Spence Perry, Chair