

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

BOWMAN GROUP, LLP
10228 Governor Lane Boulevard #3002
Williamsport, MD 21795

Appeal No. AP2007-052

Appellant

OPINION

This action is a request for a variance from the 75' height restriction to 90' for the construction of four silos for a proposed manufacturing operation. The subject property is located at 11702 Hopewell Road, Hagerstown, MD, is owned by the Appellant, and is zoned Industrial, General.

A public hearing was held before a full Board on July 11, 2007. Appellant 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 seeks a variance to construct four 90' high industrial silos on the subject property.
2. The subject property is approximately 65.7 acres in area and is part of an industrial park.
3. The surrounding parcels are used for industrial purposes.
4. Granting this request will allow for manufacturing operations to occur on the site. Currently, the product is produced elsewhere and then transported to the subject property for warehousing and distribution.

5. In 1995, Purina Mills requested and received height variances for similar, but taller, 200' silos.
6. The proposed use is a principally-permitted use, and the facility will be state-of-the-art.
7. Approval of this request will result in the creation of 400 jobs.
8. Received and filed with the Board was correspondence from Timothy Troxell, Director of the Economic Development Commission, requesting approval of this appeal.
9. Received and filed with the Board was a memorandum from Kathy A. Kroboth, Washington County Zoning Coordinator, advising that the appeal is consistent with the Comprehensive Plan.
10. 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).

The subject request arises due to the proposed use of the property for manufacturing purposes and the need to employ a gravity feed process therein. The proposed use is a permitted use of the property, compatible with the surrounding industrial uses in the neighborhood. In fact, the variance is less than that granted previously for Purina Mills' silos. No opposition was presented to this appeal, and there was no evidence presented that would show that strict compliance would achieve any practical benefits. Moreover, 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.

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. For all of the foregoing reasons, the grant of the relief requested advances the spirit of the Ordinance. Accordingly, for the reasons set forth herein, this appeal is hereby GRANTED this 10th day of August, 2007.

BOARD OF APPEALS

By: Bert Iseminger, Chair