

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

FAIRGROUND PROPERTIES, LLC  
19402 Spring Valley Drive  
Hagerstown, MD 21740

Appeal No. AP2007-093

Appellant

OPINION

This action is a request for a variance from the 75' buffer yard requirement to 10' for the outside display of equipment. The subject property is located at 12932 Salem Avenue, Hagerstown, MD, is owned by the Appellant, and is zoned Hi-1, Highway Interchange.

A public hearing was held before a full Board on October 31, 2007. The Appellant offered evidence and testimony in support of the appeal. Opponents offered evidence and testimony in opposition to the 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. The subject property is the site of Bobcat of Hagerstown.
2. The property is in an old residential area that has gradually become more commercial in character.
3. Appellants seek to display Bobcat skid loaders on the property.
4. The Appellants presented four exhibits, consisting of:
  - a. The limited area of the equipment display;
  - b. Pictures;
  - c. The site plan; and
  - d. A petition from neighbors consenting to the request and asking that fencing and shrubbery screening not be required.
5. The equipment display will be parallel to the existing drive and no closer than 25 feet to the existing drive.
6. The site plan shows how the shape of the lot and strict compliance with the setbacks

limits usable area for the equipment display.

7. Testifying in opposition, Lisa Register stated that she approves of where the equipment display is now, but doesn't want it any closer to the property line.

8. In rebuttal, the Appellant confirmed that it had no intention of expanding the outdoor display area beyond its current scope.

#### 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 Appellant has met its burden of demonstrating a practical difficulty. The size and shape of the lot necessitate this variance relief. Neighboring residents do not appear to object to the proposal so long as the equipment display area does not extend beyond its current bounds. 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. Strict compliance with the setback requirements would be unduly burdensome, would not provide any added safety or aesthetic benefits, and would fail to advance 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, for the reasons set forth herein, this appeal is hereby GRANTED WITH CONDITIONS AS SET FORTH BELOW this 30<sup>th</sup> day of November, 2007.

#### *Conditions*

1. The equipment shall be displayed in conformity with the Site Plan dated October 11, 2007, and prepared by Frederick, Seibert & Assoc.

BOARD OF APPEALS  
By: Bert Iseminger, Chair