

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

FT RITCHIE I LLC  
13817 Ritchie Road  
Cascade, MD 21719

Appeal No. AP2007-104

Appellant

OPINION

This action is an appeal for variances from the 9'x20' parking space requirement to 9'x17.75', for an aisle-width variance from 25' to 20', and to allow direct parking space ingress/egress to a public or private street. The subject property is located at 13817 Ritchie Road, Cascade, MD 21719, is owned by the Appellant, and is zoned Special Economic Development.

A public hearing was held before a full Board on January 2, 2008. The Appellant offered evidence and testimony in support of the appeal. No opposition was presented to this 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. Appellant is redeveloping the property formerly known as Fort Ritchie.
2. The buildings, roads, public facilities, and improvements on the subject site predate the adoption of zoning in the County. More importantly, the Fort was built generally under Federal initiative, without regard to local zoning provisions, if any were then in place.
3. Most existing parking spaces on the subject property are 9'x18' in area, equivalent to those found in and required by the City of Hagerstown.
4. Existing infrastructure, landscaping, and historical considerations prevent strict compliance with the Ordinance.
5. The proposed Master Plan for the site calls for the establishment of a new main thoroughfare through the facility which would minimize, or eliminate, direct parking space

ingress or egress to a street.

#### 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).

In the subject appeal, Appellant has met its burden of demonstrating a practical difficulty. Obviously, the use of the property is a permitted use and requiring the Appellant to meet the strict requirements of the Ordinance would thwart the stated purpose of this district to "provide a mixed use zoning classification which will address land use compatibility associated with the redevelopment and reuse of the Fort Ritchie Military Base. Because of the nature of the facility and past developmental patterns, a mixed-use designation is encouraged to optimize land use potential. In addition, the classification needs to be extremely flexible with regard to bulk and area development requirements since existing development patterns and reuse potential will reflect more of a town or campus character than a rural or suburban perspective." Section 19C.1.

The proposed use is precisely the type of use this district was designed to facilitate, and the existing age and historical features of the site make strict compliance impractical. We would note that the relief requested by the applicant is the generally-accepted standard in various other jurisdictions, including the City of Hagerstown locally. As the proposed parking space area is an accepted standard, we do not believe that traffic look flow will be negatively impacted by granting this variance. Creation of the new main thoroughfare will alleviate or eliminate any potential safety concerns created by direct ingress and egress to the parking spaces from the public streets. Furthermore, traffic safety concerns are further mitigated by the campus nature of the setting and by imposition of site-appropriate speed limits during the site plan review process. For the foregoing reasons, we believe that this request upholds the 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.

No one testified in opposition to the proposal, and 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. Accordingly, for the reasons set forth herein, this appeal is hereby GRANTED this 1<sup>st</sup> day of February, 2008.

BOARD OF APPEALS  
By: Bert Iseminger, Chair