

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

MARY SEIBERT  
14108 Saint Paul Road  
Clear Spring, MD 21722

Appeal No. AP2007-105

Appellant

OPINION

This action is an appeal for a variance from the required 76 parking spaces to 43 parking spaces for the establishment of a winery engaged in manufacturing, retail sales, and the hosting of seasonal/limited special events. The subject property is located at 14108 Saint Paul Road, Clear Spring, MD 21722, is owned by the Appellant, and is zoned Agricultural Rural.

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. The subject property is 179 acres in area and is, or will be, a winery.
2. A wine-tasting area is proposed.
3. Appellant plans to have special wine tasting/special events in a 40'x80' tent on the property; said events are to be held seasonally, from April through October.
4. Without the special event functions, the Appellant would need to provide five parking spaces for prospective employees and seven spaces for prospective retail customers.
5. If this variance is granted, Appellant proposes creation of 43 paved parking spaces, with an additional 33 parking spaces available in a grassy area.

6. The proposed use is consistent with the Comprehensive Plan.
7. No opposition was presented to this appeal.

#### 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 her burden of demonstrating a practical difficulty. The use of the property is a permitted use. Strict compliance with the Ordinance would result in overkill, as the projected maximum parking space will only be required on certain infrequent days when special events are scheduled. Furthermore, said special event patrons will be accommodated by a grass parking area that will adequately address parking needs. 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.

Based upon all of the testimony and evidence presented, this Board finds that the requested variance 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 1<sup>st</sup> day of February, 2008.

BOARD OF APPEALS  
By: Bert Iseminger, Chair