

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

ASAD M. GHATTAS
Appellant

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Appeal No. AP2008-047

OPINION

This action is a request for a variance to allow the replacement/relocation of a freestanding sign identifying Orchard Hills Center one foot from the property line/right-of-way due to the realignment of Maugans Avenue. The subject property is located at 18501 Maugans Avenue, Hagerstown, MD 21742, is owned by the Appellant, and is zoned Highway Interchange - 1.

A public hearing was held before the Board on October 8, 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. This sign is necessitated by the County's realignment of Maugans Avenue, the widening of which took 20' from the Appellant's property.
2. The proposed relocation of the sign will create no sight distance difficulties.
3. Strict compliance with the setbacks would result in the sign being located within the shopping center structure.
4. The County has no objection to this request, and no one testified in opposition 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).

The proposed use is a reasonable and permitted use of the property, and strict compliance with the setbacks would prevent identification of the uses located on the subject property. No evidence was presented that the proposed sign 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. For these reasons, we believe that granting this variance observes the spirit of the Ordinance. Moreover, this variance was necessitated by public infrastructure improvements and not by any action of the Appellant. Public safety is maintained, as sight distances will not be adversely affected.

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 by a 5-0 vote.

BOARD OF APPEALS
By: Bert Iseminger, Chair

Issued: November 6, 2008