

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

HALF MAT LLC
Appellant

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Appeal No. AP2009-006

OPINION

This action is a request for a variance from the required 40' front yard setback to 30' along Massey Boulevard and from the 40' front yard setback to 15' along the westbound ramp to Halfway Boulevard for a future commercial structure. The subject property is located at 1726 Massey Boulevard, Hagerstown, Maryland, is owned by the Appellant, and is zoned Business General.

A public hearing was held before the Board on February 18, 2009. The Appellant offered evidence and testimony in support of the appeal. No one testified 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. Appellant seeks to erect a structure on the subject 1.52-acre parcel.
2. This Business General parcel is bounded by Massey Boulevard, Halfway Boulevard, and the westbound ramp to Halfway Boulevard, thus giving the parcel 3 "front" yards.
3. The County plans to add a right turn lane on Massey Boulevard and acquire 25' from the subject property, thus necessitating this variance.
4. The existing structures on the building will be rendered non-conforming as a result of the property acquisition.
5. Appellant plans to remove at least one of the buildings and replace it with a new structure (intended to be a pharmacy, at this point) in the center of the building envelope.

6. The grant of this variance simply allows Appellant to build the same size structure as it could have built if the parcel wasn't the subject of the road improvement property acquisition.

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).

The proposed use is a reasonable and permitted use of the property. This variance is necessitated by the County's proposed acquisition of 25' of the property, and failure to grant the variance would serve no practical benefit. 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. For these reasons, we believe that granting this variance observes 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. 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: March 20, 2009