

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

WASHINGTON COUNTY COMMISSIONERS
Appellant

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Appeal No. AP2009-036

OPINION

This action is a request for a variance from the 150' front yard setback along Route 11 to 24.71' and for a variance from the 75' side yard setback to 0' for construction of a corporate hangar. The subject property is located along the southwest side of Route 11 at Jarkey Drive, Hagerstown, Maryland, is owned by the Board of County Commissioners, and is zoned Airport. A public hearing was held before the Board on July 22, 2009, and no opposition was presented to this request.

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. RJC Hangar 66, LLC, the proposed lessee, intends to construct a commercial hangar for the storage and maintenance of aircraft.
2. The hangar, when built, will accommodate three large aircraft with 100' wingspans.
3. The proposed size of the hangar is necessary to make the project economically viable.
4. The variances are measured from the leased parcel's boundary lines, not from the parcel's property lines.
5. The proposed hangar will be 300'x130' in area, and 49' in height at the roof's crest.
6. The proposed lessee has tried to rearrange the proposed layout of the structure to minimize the magnitude of the variances, but FAA requirements, the building's required size, and runway positions necessitate the variance amounts requested herein.

7. Due to FAA height restrictions, placement of the building closer to the runways (and, consequently, farther from Route 11) is prohibited.

8. FAA has approved this proposal.

9. The County is in support of this proposal and considers this use at this site to be the optimal use of the property.

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 lessee has met its burden for these variances. The hangar use is a principally permitted use of the subject property, and these variances are required due to the unique nature of the property and its limited building area. The property is part of the airport, and the airport is of limited size and improved with numerous other structures. For safety reasons, the airport, and the placement of structures thereon, is subject to strict FAA regulation. The location proposed for this hangar is the preferred location given the area needed for the structure and the vacant land available for improvement. Strict compliance with the setback requirements is unnecessarily burdensome and impractical for the foregoing reasons, and it would offer no practical benefit in promoting the public health, safety, and welfare. For the same reasons, a lesser relaxation of the setbacks would fail to provide substantial relief for the hangar's construction. 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. Considering all of these facts, we feel that the grant of this request advances 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.

BOARD OF APPEALS

By: Bert Iseminger, Chair

Date Issued: August 19, 2009