

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

HIGH'S OF BALTIMORE, INC.
Appellant

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Appeal No. AP2009-38

OPINION

This action is a request for a variance from the minimum 25' setback from the street right-of-way to 10' for the placement of a monument sign identifying High's Dairy Store and 1st Mariner Bank and for a variance to allow the sign to face an adjoining parcel zoned Residential Rural. The subject property is located at 22550 Jefferson Boulevard, Smithsburg, Maryland, is owned by the Lewis Orchard and Farms, LLC, and is zoned Business Local.

A public hearing was held before the Board on August 19, 2009. 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 proposes placement of a monument sign to identify High's Dairy Store and 1st Mariner Bank on the subject property.
2. The sign will face an adjoining parcel zoned Residential Rural.
3. The adjoining Residential Rural property is currently used as an agricultural field.
4. The sign will have a brick base and will be unlit between the hours of 11 p.m. and 5:30 a.m.
5. The size and shape of the lot and the proposed layout of structures thereon make placement of the sign in a visible manner impossible without variances. If the 25' setback was met at the entrance, then the sign would be in the drive aisle.
6. The proposed placement is as far back from the setback line as possible while still providing for effective visibility.

7. Placement of the sign as proposed will help to channelize traffic to the site's entrance.
8. No one testified in opposition to this request.

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. Strict compliance with the Ordinance's requirements would unreasonably hinder identification of the property to passing motorists. For the reasons stated in the Findings of Fact, lesser variances are impracticable and would not give substantial relief. The sign will have no adverse impact on sight distances, is compatible with the mixed commercial character of the neighborhood, and will replace an existing sign. 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 these variances 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 vote of 5-0.

BOARD OF APPEALS
By: Bert Iseminger, Chair

Date Issued: September 18, 2009