

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

VARSITY PROFESSIONAL CENTER, LLC  
Appellant

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Appeal No. AP2009-40

OPINION

This action is a request for a variance from the required 25' setback from a future street right-of-way to 5' from Robinwood Drive and Varsity Lane for placement of a backlit freestanding identification sign along each street frontage and a variance to allow the signs to face adjoining parcels zoned RS-PUD and RS. The subject property is located at 11236 Robinwood Drive, Hagerstown, Maryland, is owned by the Appellant, and is zoned Business Transitional.

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 erection of two monument signs on the subject property to identify onsite uses.
2. The signs will be about 15 <sup>3</sup>/<sub>4</sub>' high and will be situated perpendicular to the public right-of-ways.
3. The signs will be 120' and 240' from the respective residential districts.
4. The placement of the signs is as proposed due to the site layouts, traffic factors, and visibility concerns.
5. The signs will be backlit and only lit during office hours.
6. No one testified in opposition to this request. However, the County's Land Development Engineering Department has some concerns regarding this appeal due to improvements and signalization planned for the intersection of Varsity Lane and Robinwood Drive.

## 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 placement of signage to identify onsite property uses 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 signs will have no adverse impact on sight distances and are compatible with the character of the neighborhood. No evidence was presented that the proposed signage 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 vote of 5-0.

### *Condition*

1. This approval is conditioned upon the consent of the Land Development Engineering Department as to placement of the signs in light of the proposed future improvement of the Robinwood Drive/Varsity Lane intersection.

BOARD OF APPEALS

By: Bert Iseminger, Chair

Date Issued: September 18, 2009