

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

BOWMAN GROUP LLP
Appellant

*
*

Appeal No. AP2009-058

OPINION

This action is a request for a variance from the minimum 25' front yard setback from the street right-of-way to 5' for the placement of a free-standing sign. The subject property is located at 13 E. Oak Ridge Drive, Hagerstown, Maryland, is owned by the Appellant, and is zoned Highway Interchange - 1.

A public hearing was held before the Board on October 28, 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 free-standing sign on the subject property to identify on-premises businesses.
2. The subject property is unique in that it is shallow in depth and long in width, and it has a sloping topography.
3. The building is situated to the rear of the property, with parking in the "front yard" area.
4. Strict compliance with the setback would result in the sign being placed within the drive aisle of the parking area.
5. 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 and would result in an impracticable and dangerous condition, as the sign would have to be situated in the drive aisle of the parking lot. The size, shape, and topography of the property compel a relaxation in the setback requirement, and no lesser relaxation is feasible given these characteristics. The sign will have no adverse impact on sight distances, will not be incompatible with the character of the neighborhood, and will not negatively affect traffic safety or aesthetic concerns. 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.

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 with the condition set forth below.

Condition

1. Appellant shall comply with the recommendations of the Land Development Engineering Department regarding parking spaces immediately to the east of the proposed sign location as expressed in its memorandum of October 26, 2009.

BOARD OF APPEALS
By: Bert Iseminger, Chair

Date Issued: November 25, 2009