

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

MOJON ENTERPRISES
Appellant

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Appeal No. AP2009-069

OPINION

This action is a request for a variance from the minimum 25' setback from the state highway right-of-way to 10' for the placement of a freestanding sign and for a variance to allow the sign to face adjoining RU-zoned properties. The subject property is located at 13331 Pennsylvania Avenue, Hagerstown, Maryland, is owned by the Appellant, and is zoned Business General.

A public hearing was held before the Board on January 13, 2010. 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. The Appellant is dividing the former Merkle building into four separate occupancy units.
2. The sign will identify on-premise uses.
3. The sign's placement will not interfere with ingress or egress to the site, nor will it hamper motorists' vision.
4. The proposed placement is the only viable location at which the sign will be visible by motorists such that they can identify the access point for the property.
5. The sign will not be illuminated.
6. The sign will be placed near an existing telephone pole.
7. This variance is necessitated because the setback area, when combined with the 25' width of the adjacent state right-of-way, makes compliance impossible.

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 and the uses located thereon to passing motorists. The size, shape, and topography of the property and the width and proximity of the state's right-of-way 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.

BOARD OF APPEALS

By: Bert Iseminger, Chair

Date Issued: February 12, 2010