

BOARD OF APPEALS

January 10, 2018

AGENDA

DOCKET NO. AP2017-051: An appeal made by St. Marks Episcopal Church for a variance from 25 ft. from street right of way to 10 ft. for placement of a freestanding sign on property owned by the Appellant and located at 18311 Lappans Road, Boonsboro, zoned Rural Village - **GRANTED**

DOCKET NO. AP2017-052: An appeal made by Donald & Joanne Bingaman for a variance from the modified minimum required side yard setback of 10 ft. to 5 ft. for the construction of a duplex on property owned by the Appellant and located at 436 South Artizan Street, Williamsport, zoned Residential Transition - **GRANTED**

Pursuant to the Maryland Open Meetings Law, notice is hereby given that the deliberations of the Board of Zoning Appeals are open to the public. Furthermore, the Board, at its discretion, may render a decision as to some or all of the cases at the hearing described above or at a subsequent hearing, the date and time of which will be announced prior to the conclusion of the public hearing. Individuals requiring special accommodations are requested to contact Kathy Kroboth at 240-313-2469 Voice, 240-313-2130 Voice/TDD to make arrangements no later than January 1, 2018. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

The Board of Appeals reserves the right to vary the order in which the cases are called. Please take note of the Amended Rules of Procedure (Adopted July 5, 2006), Public Hearing, Section 4(d) which states:

Applicants shall have ten (10) minutes in which to present their request and may, upon request to and permission of the Board, receive an additional twenty (20) minutes for their presentation. Following the Applicant's case in chief, other individuals may receive three (3) minutes to testify, except in the circumstance where an individual is representing a group, in which case said individual shall be given eight (8) minutes to testify.

Those Applicants requesting the additional twenty (20) minutes shall have their case automatically moved to the end of the docket.

For extraordinary cause, the Board may extend any time period set forth herein, or otherwise modify or suspend these Rules, to uphold the spirit of the Ordinance and to do substantial justice.

Neal Glessner, Chairman
Board of Zoning Appeals

**BEFORE THE BOARD OF APPEALS
FOR WASHINGTON COUNTY, MARYLAND**

**St. Mark's Episcopal Church
Applicant**

Appeal No. AP2017-051

OPINION

This appeal is a request for a variance from the minimum 25' setback from the street right-of-way to 10' for the placement of a freestanding sign. The subject property is located at 18311 Lappans Road, Boonsboro, Maryland; is owned by the Applicant; and is zoned Rural Village. The Board held a public hearing on the matter on January 10, 2018.

Findings of Fact

Based upon the testimony given, all information and evidence presented, and upon a study of the specific property involved and the neighborhood in which it is located, the Board makes the following findings of fact:

1. The Applicant seeks a variance to place a freestanding sign within the 25' setback from the street right-of-way.
2. Strict compliance with the setback would result in the sign being in the church's driveway and would obstruct the visibility of the sign from passing motorists.
3. The sign will be 6'x6' in area.
4. The proposed placement will not obstruct the visibility of motorists entering or exiting the subject property.
5. The sign will be externally illuminated by floodlights.
6. No one is opposed to this request.

Rationale

This Board has authority to grant a variance upon a showing of practical difficulty or undue hardship.¹ §§ 25.2(c) and 25.56. "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 variance 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. § 25.56(A).

This request for variance relief is reasonable. The need for variance relief is occasioned by the size and shape of the lot and the imposition of the street right-of-way. Strict compliance would result in the sign being erected in the middle of the existing driveway, with scant visibility to passing motorists. The proposed location maximizes the sign's visibility while not obstructing the visibility of motorists entering and exiting the church property. The sign will be externally illuminated and of a size and shape consistent with applicable standards. No one testified in opposition to this request. We conclude that the grant of this request observes the spirit of the Ordinance and secures the public safety and welfare for the foregoing reasons.

Accordingly, this request for a variance is hereby GRANTED by a vote of 5-0.

BOARD OF APPEALS
By: Neal R. Glessner, Chair

Date Issued: February 9, 2018

**BEFORE THE BOARD OF APPEALS
FOR WASHINGTON COUNTY, MARYLAND**

**Donald & Joanne Bingaman
Applicants**

Appeal No. AP2017-052

OPINION

This appeal is a request for a variance from the modified minimum 10' side yard setback to 5' for the construction of a duplex. The subject property is located at 436 S. Artizan Street, Williamsport, Maryland; is owned by the Applicants; and is zoned Residential Transition. The Board held a public hearing on the matter on January 10, 2018.

Findings of Fact

Based upon the testimony given, all information and evidence presented, and upon a study of the specific property involved and the neighborhood in which it is located, the Board makes the following findings of fact:

1. The Applicants seek a variance to construct a duplex on the subject property.
2. A dwelling that has been on the property since the 1950s was removed last year due to deterioration.
3. The Applicants purchased the property from Ms. Bingaman's grandparents.
4. Her grandmother will reside in one side of the duplex and the other side will be a rental unit.
5. The duplex units will be three-bedroom units.
6. Duplexes need a 20,000 sq. ft. lot and 100' lot width.
7. The subject property is 9,775 sq. ft. and is 50' in width.
8. The duplex will be 40' in width, each side being 20' wide.
9. Surrounding lots are of similar size and shape and were created in the 1950s prior to the adoption of zoning in the County.

10. The neighbor most-impacted by the proposed encroachment has no objection to this request.

11. No one testified in opposition to this request.

Rationale

This Board has authority to grant a variance upon a showing of practical difficulty or undue hardship.¹ §§ 25.2(c) and 25.56. “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 variance 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. § 25.56(A).

This request for variance relief is reasonable. The proposed duplex is a principally permitted use in this zone. The need for variance relief is occasioned by the size and shape of the lot, which was created before the enactment of zoning. The duplex is of reasonable size, and strict compliance would result in the construction of less desirable units or units impracticable for habitability. A lesser relaxation is impracticable for the same reason. The encroachment is consented to by the most-affected neighbor, and the other lots in the immediate neighborhood are of similar size to this lot. No opposition was presented to this request. Therefore, we conclude that the grant of this request observes the spirit of the Ordinance and secures the public safety and welfare.

Accordingly, this request for a variance is hereby GRANTED by a vote of 5-0.

BOARD OF APPEALS

By: Neal R. Glessner, Chair

Date Issued: February 9, 2018