

BOARD OF APPEALS

July 8, 2026

County Administration Building, 100 W. Washington St., Meeting Room 2000, Hagerstown, at 6:00 p.m.

AGENDA

AP2026-012: An appeal was filed by AutoZone Development LLC for a variance from the required 25 ft. setback from the road right-of-way to 22.34 ft., more or less, for installed freestanding sign on property owned by Sharpsburg Holding LLC and located at 10301 Ezra Drive, Hagerstown, Zoned Highway Interchange District. - **GRANTED**

AP2026-023: An appeal was filed by Hard Rock Excavation for a special exception to establish additional area to be used for the previously approved excavation business on property owned by the appellant and located at 17028 Broadfording Road, Hagerstown, Zoned Agricultural Rural District. - **GRANTED**

AP2026-024: An appeal was filed by Faith and Jesse Leisinger for a variance from the required 15 ft. side yard setback to 13 ft. for constructed foundation for a single-family dwelling on property owned by the appellant and located at 4931 Mount Briar Road, Keedysville, Zoned Preservation District. -**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 Katie Rathvon at 240-313-2464 Voice, 240-313-2130 Voice/TDD no later than June 29, 2026. 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.

Tracie Felker, Chairman

Board of Zoning Appeals



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

ZONING APPEAL

Property Owner: Sharpsburg Hilding LLC
1741 Dual Highway
Suite B
Hagerstown MD 21740

Appellant: AutoZone Development LLC
10301 Ezra Drive
Hagerstown MD 21740

Property Location: 10301 Ezra Drive
Hagerstown, MD 21740

Description Of Appeal: Variance from the required 25 ft. setback from the road right-of-way to 22.34 ft., more or less, for installed freestanding sign.

Docket No: AP2026-012
Tax ID No: 10067468
Zoning: HI
RB Overlay: No
Zoning Overlay:
Filed Date: 04/17/2026
Hearing Date: 05/13/2026

Appellant's Legal Interest In Above Property:

Owner:	No	Contract to Rent/Lease:	No
Lessee:	Yes	Contract to Purchase:	No
Other:			

Previous Petition/Appeal Docket No(s): AP2020-011, AP2025-008

Applicable Ordinance Sections: Washington County Zoning Ordinance Section 22.23 (e)

Reason For Hardship: See justification statement

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Freestanding Sign
Proposed Use:

Previous Use Ceased For At Least 6 Months:
Area Devoted To Non-Conforming Use -

Existing:
Proposed:

Date Ceased:

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 17 day of April, 2026.

Nov. 7, 2029

My Commission Expires

Notary Public



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2026-012

State of Maryland Washington County, To Wit:

On 4/17/2026, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared William Wantz and made oath in due form of law as follows:

William Wantz will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 05/13/2026, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

Sign(s) will be posted on 04/28/2026 and will remain until after the above hearing date.

William Wantz

Sworn and subscribed before me the day and year first above written.

Notary Public

Seal

My Commission Expires



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

BOARD OF ZONING APPEALS

ATTENTION!

Posting Instructions

The premises MUST be posted in accordance with the following rules:

1. The sign must be posted a minimum of fourteen (14) days prior to the public hearing
Section 25.51(c) Property upon which the application or appeal is concerned shall be posted conspicuously by a zoning notice no less in size than twenty-two (22) inches by twenty-eight (28) inches at least fourteen (14) days before the date of the hearing.
2. The sign must be placed on the property within ten (10) feet of the property line which abuts the most traveled public road.
3. The sign must be posted in a conspicuous manner not over six (6) feet above the ground level, and affixed to a sturdy frame where it will be clearly visible and legible to the public.
4. The sign shall be maintained at all times by the applicant until after the public hearing. If a new sign is needed or required, please contact the Plan Review Department at 240-313-2460.
5. An affidavit certifying the property will be posted for the minimum of fourteen (14) days prior to the public hearing date.

Proper posting of the sign will be spot checked by the Zoning Inspector. IF SIGN IS NOT IN COMPLIANCE, IT MAY RESULT IN RESCHEDULING OF THE HEARING.



BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | F: 240.313.2461 | Hearing Impaired:

7-1-1 WWW.WASHCO-MD.NET

Appeal for Variance

Appeal is hereby made for a variance from a requirement of the Washington County Zoning Ordinance as follows:

Location 10301 Ezra Drive, Hagerstown MD 21740

Appellant's present legal interest in above property: (Check One)

☐ Owner (Including Joint Ownership) ☒ Lessee ☐ Contract to rent/lease

☐ Contract to Purchase ☐ Other _____

Specify the Ordinance section and subsection from which the variance is desired:

Section 22.22(e)

Specify the particular requirement(s) from which a variance is desired in that section or subsection:

"... no part of the supporting structure is less than twenty-five (25') feet from the street right-of-way, ..."

Describe the nature and extent of the desired variance from Ordinance requirements: listed above:

A dimensional variance of approximately two and one-half feet to five feet is requested.

Describe reason(s) why the Ordinance requirement(s) in question would result in peculiar and/or unusual practical difficulties to or would impose exceptional or undue hardship upon the owner of the property if the requested variance were not granted:

Provide Detailed Explanation on Separate Sheet

Has any previous petition or appeal involving this property been made to the Board?

☒ Yes ☐ No

If yes, list docket number(s): AP2025-008

I hereby certify that I have, to the best of my knowledge, accurately supplied the information required for the above referenced appeal.

Laurabeth Myers
Signature of Appellant

laurabeth.myers@autozone.com

Email of Appellant

c/o William C. Wantz, 123 W. Washington St.,
Hagerstown MD 21740

Address and of Appellant

Phone Number of Appellant

This appeal form is to be used to assist the customer in gathering the information necessary to submit an application. However, the application shall be processed in person.



Washington County
MARYLAND

BOARD OF ZONING APPEALS

OWNER REPRESENTATIVE AFFIDAVIT

This is to certify that AutoZone Development LLC, c/o William C. Wantz, attorney for Applicant
is authorized to file an appeal with the Washington County Board of Appeals for
a variance _____ on property
located 10301 Ezra Drive, Hagerstown MD 21740.
The said work is authorized by Sharpsburg Pike Holding, LLC
the property owner in fee.

PROPERTY OWNER

Sharpsburg Pike Holding, LLC

Name

1741 Dual Highway, Ste B

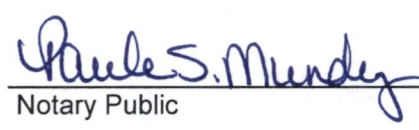
Address

Hagerstown MD 21740

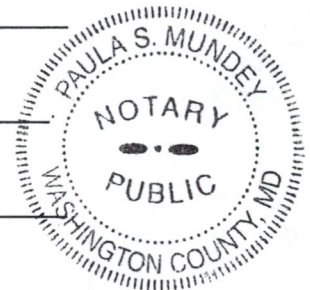
City, State, Zip Code


Owner's Signature

Sworn and subscribed before me this 5th day of February, 2026


Notary Public

My Commission Expires: 3-18-27



AUTHORIZED REPRESENTATIVE

William C. Wantz

Name

123 West Washington Street

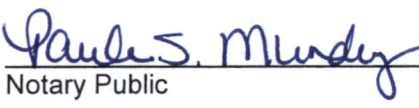
Address

Hagerstown MD 21740

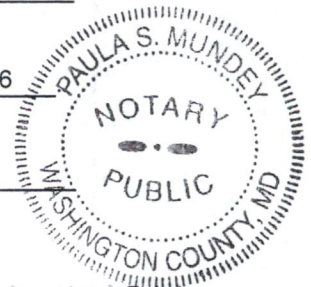
City, State, Zip Code


Authorized Representative's Signature

Sworn and subscribed before me this 5th day of February, 2026


Notary Public

My Commission Expires: 3-18-27



747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | F: 240.313.2461 | Hearing Impaired: 7-1-1

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APPLICATION OF
AUTOZONE DEVELOPMENT LLC

MEMORANDUM IN SUPPORT OF ZONING VARIANCE

AutoZone Development LLC, the Applicant ("AutoZone"), by William C. Wantz, its attorney, submits this Memorandum in support of its application for a dimensional area variance based on practical difficulty.

Background

The Applicant is a lessee under a commercial lease by and between the Applicant and Sharpsburg Pike Holding, LLC dated February 22, 2021, with respect to real property at 10301 Ezra Drive in Washington County. The land is zoned HI (Highway Interchange) and improved by a newly constructed retail building.

The approved site plan includes an on-premises sign visible from both Ezra Drive and the adjacent right-of-way of the Sharpsburg Pike (MD Rte. 65). The sign was installed for Jones Sign, an independent contractor of the Applicant, by United Sign Group, LLC, the installer.

A worker engaged by United Sign Group encountered significant rock when excavating for the proposed sign. A construction worker probed the surrounding subsurface area and without the involvement or knowledge of the Applicant, departed from the approved site plan and relocated the sign. The actions of the construction worker caused the sign support structure (pole) to be within 25 feet of the right-of-way by approximately 32 inches, contrary to the requirement in §22.23(e) of the Washington County Zoning Ordinance, which provides:

"Individual business or industrial establishments may erect a free-standing business sign, provided the lot frontage is at least forty (40) feet. The free-standing sign shall be located in such a manner that no part of the supporting structure is less than twenty-five (25) feet from the street right-of-way,..." (emphasis supplied)

The mistake was inadvertent.

Relocating the sign to avoid subsurface rock had the unintended effect of placing the sign within 25 feet of the right-of-way line of the Sharpsburg Pike. The pole is 22.34 feet from the right-of-way line of MD Rte. 65. The illuminated sign conforms to the setback requirements of the Ordinance. A variance is required only for the existing location of the supporting pole.

The 12-Month Rule

The Washington County Zoning Ordinance includes a rule intended to prevent an applicant from repetitive re-filing of similar zoning applications on the same property:

"Disapproval of Application

If the application is disapproved, thereafter the Board shall take no further action on another application for substantially the same proposal, on the same premises, until after twelve (12) months from the date of such disapproval." *Zoning Ordinance, Washington County, Maryland*, §25.7¹

AutoZone, the current Applicant, is in possession of the property pursuant to its long-term leasehold interest in the land, and seeks to file its own independent application for a variance based on practical difficulty. AutoZone has not filed or participated in any previous application to the Board of Appeals.

Although the Ordinance precludes the Board from taking action on a second application for 12 months, it does not directly prohibit an action by the Board on an application by a different party, especially when based on real property rights independent of the previous applicant, and presenting different variance grounds. It is not necessary for the Board to delay action in this appeal by this Applicant.

The Practical Difficulty Standard

Section 28A of the Washington County Zoning Ordinance defines variance generally as "a relaxation of the terms of the Zoning Ordinance for distance or dimensional requirements." Washington County's Ordinance allows variance relief on the basis of undue hardship or practical difficulty, in the alternative:

Section 25.56 Variances

"A variance may be granted by the Board upon a showing of criteria of practical difficulty or undue hardship described below respectively..." ²

¹ Prior to the filing of this variance appeal, the Applicant's counsel consulted with Jill Baker, the former Planning Director and Zoning Administrator, leading to the filing of this application on behalf of AutoZone without objection.

² The Board of Appeals acknowledged that the County's Ordinance allows variance relief based on hardship or practical difficulty, in the alternative. Opinion, AP-2025-008, page 1, *note* 1.

It has been observed in Maryland that sign variances are generally considered under the practical difficulty standard:

"Because a variance from sign regulations is deemed to be an 'area' variance, the impact of which is viewed as being much less drastic than that of a 'use' variance, a party need only show 'practical difficulty,' the lesser standard of proof, to be entitled to relief." *Red Roof Inns, Inc. v. People's Counsel for Baltimore County*, 96 Md. App. 219, 225 (1993)

In Washington County, the three requirements of practical difficulty are set forth in §25.56(A) of the Ordinance:

A. Practical Difficulty

1. Strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
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. *Zoning Ordinance, Washington County, Maryland*, §25.56³

Notably, §25.56(A) does not include a self-imposed hardship provision. Instead, the self-created hardship limitation appears only in Section 25.56(B) in the alternative "Undue Hardship" criteria:

B. Undue Hardship

* * *

3. The hardship is not the result of the applicant's own actions. *Zoning Ordinance, Washington County, Maryland*, §25.7(B) (emphasis supplied)

³ Section 25.56(A) is in accord with and derived verbatim from Judge Rita Davidson's analysis in *Anderson v. Board of Appeals*, 22 Md.App. 28 (1974); *See also, McLean v. Soley*, 270 Md. 208, 214-215 (1973), quoting 2 Rathkopf, *The Law of Zoning and Planning*, 45-28-29 (3d ed. 1972)

Uniqueness

Maryland's zoning jurisprudence requires that the condition from which variance relief is requested must arise from the property itself, and not from the actions of the Applicant. This requirement is known as "uniqueness", which may include subsurface conditions:

" 'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, *i.e.*, its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions." *North v. St. Mary's County*, 99 Md. App. 502, 514 (1994) (emphasis supplied)⁴; *see also*, *King v. Helfrich*, 263 Md. App. 174, 192 (2024), *cert. denied*, 489 Md. 286 (2024); *Cromwell v. Ward*, 102 Md. App. 691, 710 (1995)

In this appeal, the Applicant seeks variance relief from the subsurface condition of the property encountered where the sign was to be installed, as specified in the approved site plan. In the previous decision in AP-2025-008, the Board so observed:

"During construction, the contractor discovered significant rock and the location for the sign was moved to accommodate the topography issue." Opinion, AP-2025-008, p.1

In considering the required element of uniqueness, the practical difficulty must relate to a characteristic of the property and not result from the action of the applicant. In this appeal, the practical difficulty was caused by subsurface rock encountered at the excavation site. The installer did not create the practical difficulty. AutoZone did not create the subsurface condition from which it seeks variance relief in this appeal. Instead, the practical difficulty was caused by the subsurface condition of the property.

In previously denying variance relief in AP-2028-008, the Board of Appeals focused on the responsibility of the installer, rather than the practical difficulty inherent in the site, and concluded: "On that basis, the Board is unable to find that a hardship or practical difficulty exists that is related to the inherent characteristics of the property and the application of the setback requirements thereto. *Opinion*, page 3

⁴ The Board of Appeals quoted the same passage from *North* in its previous Opinion in AP-025-008, at page 2.

Had the Board focused instead on the subsurface condition of the property, the outcome in that appeal might well have been different.

No Disallowance by Pre-Variance Construction

The inadvertent relocation of the sign without a variance prior to AP-2025-008 does not preclude variance relief under Maryland law. In *Lewis v. Dep't of Nat. Res.*, 377 Md. 382 (2003), the Court of Appeals of Maryland (now the Supreme Court of Maryland) analyzed an analogous sequence of events involving construction of hunting camp buildings before obtaining a variance, and explained:

"In essence, the issue of petitioner's construction of his six hunting camp buildings prior to his applying for a variance request is a 'red herring.' As previously mentioned, under the County Code and, more importantly, because of the physical characteristics of Phillips Island, petitioner needed a variance to build any camp on the island regardless of whether he had started construction before applying for the variance, due to the small, irregular, non-contiguous shape of the non-Buffer area on Phillips Island. Petitioner does not claim, as the Commission would have this Court believe, that it is a hardship for him to move the buildings from where they currently sit. Essentially, his claim is that his property has unique physical characteristics which entitle him to receive a variance in order to avoid an unwarranted hardship. The Board should have analyzed petitioner's request in this light and *not* in the context of a self-created hardship." *Lewis v. Dep't of Nat. Res.*, *supra*, 425–26; *See also: Chesley v. City of Annapolis*, 176 Md.App. 413, 439 (2007) (construing *Lewis*) (emphasis in original)⁵

Because the Board's previous 3-2 decision in AP-2025-008 was based solely on the conduct of the installer, the Board decided the appeal before reaching or exploring whether a variance was justified by the impeding subsurface rock encountered upon excavation.⁶

⁵ It is significant in this appeal to note that, until the excavation was actually undertaken and the subsurface rock encountered, it was not known to the installer that a variance was needed.

⁶ Similarly, in *Cromwell*, *supra*, the construction was commenced without first obtaining a variance, and was found to exceed a building height restriction in the local ordinance. As noted by Judge Cathell:

"Had there been evidence before the Board indicating that the subject property was peculiar or unusual and, thus, disproportionately affected by the height restriction, then we might have been able to conclude that the Board was correct." *Cromwell v. Ward*, *supra*, 726

Additionally, the conduct of an independent subcontractor installer is not attributable to the Applicant. Under Maryland law, a subcontractor is considered an independent contractor. Maryland law generally treats contractors and subcontractors as independent contractors:

"[I]f the worker's agreement is to perform the work 'according to his own means and methods free from control of his employer in all details connected with the performance of the work except as to its product or result' the worker is deemed to be an independent contractor and not an employee/servant. *Williams Construction Co. v. Bohlen*, 189 Md. 576, 580, 56 A.2d 694 (1948); *Gale v. Greater Washington Softball Umpires Assoc.*, 19 Md.App. 481, 311 A.2d 817 (1973)." *L. M. T. Steel Prods., Inc. v. Peirson*, 47 Md. App. 633, 636 (1981)

A decision from the Appellate Court of Connecticut illustrates the point:

"We conclude that the trial court's finding that the surveyor was hired by the defendant [applicant] was not supported by the record. In light of that conclusion and in the absence of any evidence that the surveyor was other than an independent contractor in control of his own means and methods of work, 'except as to the result of his work'; *Tianti v. William Raveis Real Estate, Inc.*, 231 Conn. 690, 697, 651 A.2d 1286 (1995); we conclude that the trial court incorrectly found that the hardship was self-created and then improperly applied the self-created hardship rule. We, therefore, reverse the judgment of the trial court and remand with direction to deny the appeal [to the trial court]." *Osborne v. Zoning Bd. of Appeals of Town of Guilford*, 41 Conn. App. 351, 354-55 (1996) (emphasis supplied)

In *Osborne, supra*, the applicant hired an architect to enlarge a summer residence. Before beginning construction, the architect engaged a surveyor to stake the corners of the proposed foundation. Before construction, the surveyor selected by the architect inadvertently staked the side line, resulting in a setback violation of 7 inches. The error was not discovered until construction was nearly completed. The surveyor applied for a variance.

At the hearing before the local zoning board, the surveyor testified that he was retained by the architect (and not by the applicant) to mark the offset for the building, and that the surveyor incorrectly placed one of the stakes seven inches closer to the side lot line than it should have been. Finding that the commencement of construction before obtaining a variance was an honest error on the part of the surveyor, and that granting the variance would not have an adverse effect, the zoning board granted the variance.

A neighbor appealed. On appeal from the zoning board, the trial judge denied the variance. The trial judge initially determined that the sole issue before it was whether the defendant's hardship was self-created, and found that the owner had employed the surveyor whose error caused the noncompliance. Based on that assumed employment relationship, the trial judge attributed the surveyor's error to the owner, and concluded that the hardship was self-created.

In reversing the decision of the trial judge, the Appellate Court found that, with respect to the relationship between the applicant and the surveyor, the surveyor was an independent contractor, and therefore, the owner did not create the hardship. Accordingly, the Appellate Court ruled that it was error on the part of the trial court to attribute the error of an independent contractor to the property owner. *Osborne v. Zoning Bd. of Appeals of Town of Guilford*, 41 Conn. App. 351, 354-55 (1996)⁷

As in *Osborne*, AutoZone had no involvement in the selection or supervision of the independent contractor who installed the sign, or in the means and methods of construction. Even if AutoZone were relying on hardship in this variance appeal, the acts of the independent installer would not be attributable to the Applicant.

The Elements of Practical Difficulty in this Appeal

1(a). Strict Compliance Would Unreasonably Prevent the Use of the Property for a Permitted Purpose

In this appeal, AutoZone is generally permitted under §§19.2(a) and 22.23 of the Ordinance to conduct a retail commercial business on the leased property and to have a related "use on premises" sign. Such signs are permitted under §22.23 as accessory uses. However, in view of §22.23(e) of the Ordinance, without variance relief, the existing sign would be required to be moved.

1(b). Strict Compliance Would Render Conformance Unnecessarily Burdensome

If the existing sign may not be permitted by the grant of a variance to remain in the location where currently constructed, it would be unnecessarily burdensome to the Applicant to remove the sign and relocate it 32 inches farther from the Sharpsburg Pike Right-of-way line.

⁷ Although the decisions of the courts of Connecticut and other states are not binding in Maryland, they may offer a well-reasoned legal analysis.

2(a). Denying the Variance Would Do Substantial Injustice to the Applicant

Dimensional variance relief is included in the Ordinance to provide relief from the practical difficulty presented in this appeal. To deny relief from practical difficulty to which the Applicant is justly entitled would be a substantial injustice to the Applicant.

2(b) A Lesser Relaxation than That Applied for Would Not Give Substantial Relief

The extent of the requested variance is based on the actual location of the existing sign and its approximate distance from the right-of-way line of MD Rte. 65, with a reasonable margin of error.

3(a). Granting the Variance Would Observe the Spirit of the Ordinance

The Ordinance provides variance relief from practical difficulty on a case-by-case basis where the applicable criteria are present. There is no perceived detrimental effect or lack of compatibility of the sign at its present location on any adjacent or surrounding property.

3(b). Granting the Variance Would Secure Public Safety

There are no identifiable public safety issues identified in this variance application. Granting the variance would not impair visibility.

3(c). Granting the Variance Would Secure Public Welfare

There is no perceived public detriment associated with the present location of the sign. The appearance of the sign is consistent with the types of commercial uses in the HI zoning district.

Section 25.6 Factors

Pursuant to § 25.6 of the Ordinance, the Board applies the following guides and standards in considering whether to grant or deny variance relief:

(a) The number of people residing or working in the immediate area concerned.

Response: The HI zone along Sharpsburg Pike is predominately commercial in character. No adverse effects resulting from the adjustment of the location of the sign are perceived.

(b) The orderly growth of a community.

Response: The AutoZone use is appropriate in the HI zone. The purpose of the HI zone is described in the Ordinance:

Section 19.1. Purpose

The Highway Interchange District is established to provide suitable locations for commercial activities or light industrial land uses that serve highway travelers, provide goods and services to a regional population, or uses that have a need to be located near the interstate highway system to facilitate access by a large number of employees, or the receipt or shipment of goods by highway vehicles.

(c) Traffic conditions and facilities.

Response: The location of the sign does not adversely impact traffic conditions or facilities.

(d) The effect of such use upon the peaceful enjoyment of people in their homes.

Response: The current location of the sign has no effect on the peaceful enjoyment of people in their homes.

(e) The conservation of property values.

Response: The current location of the sign does not impact property values.

(f) The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the use of surrounding property values.

Response: These enumerated adverse effects are not associated with the sign.

(h) Decision of the courts.

Response: The requested variance is supported by the decisions of the courts cited in this Memorandum.

(i) The purpose of these regulations as set forth herein.

Response: The Ordinance provides for the relief requested, based on the applicable practical difficulty standard.

(j) Type and kind of structures in the vicinity where public gatherings may be held, such as schools, churches and the like.

Response: There are no places where public gatherings are held in the vicinity of the sign.

Respectfully submitted,

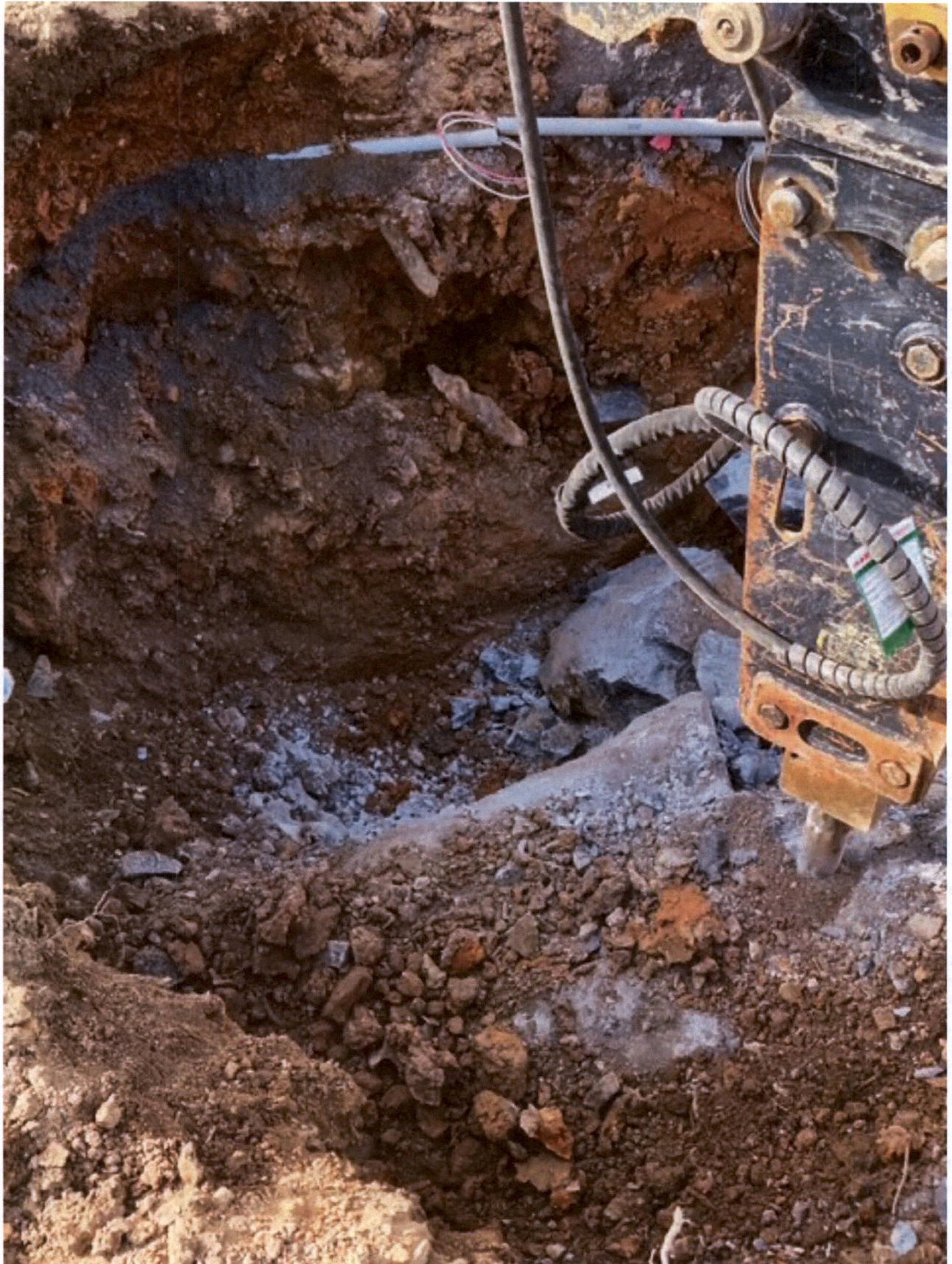


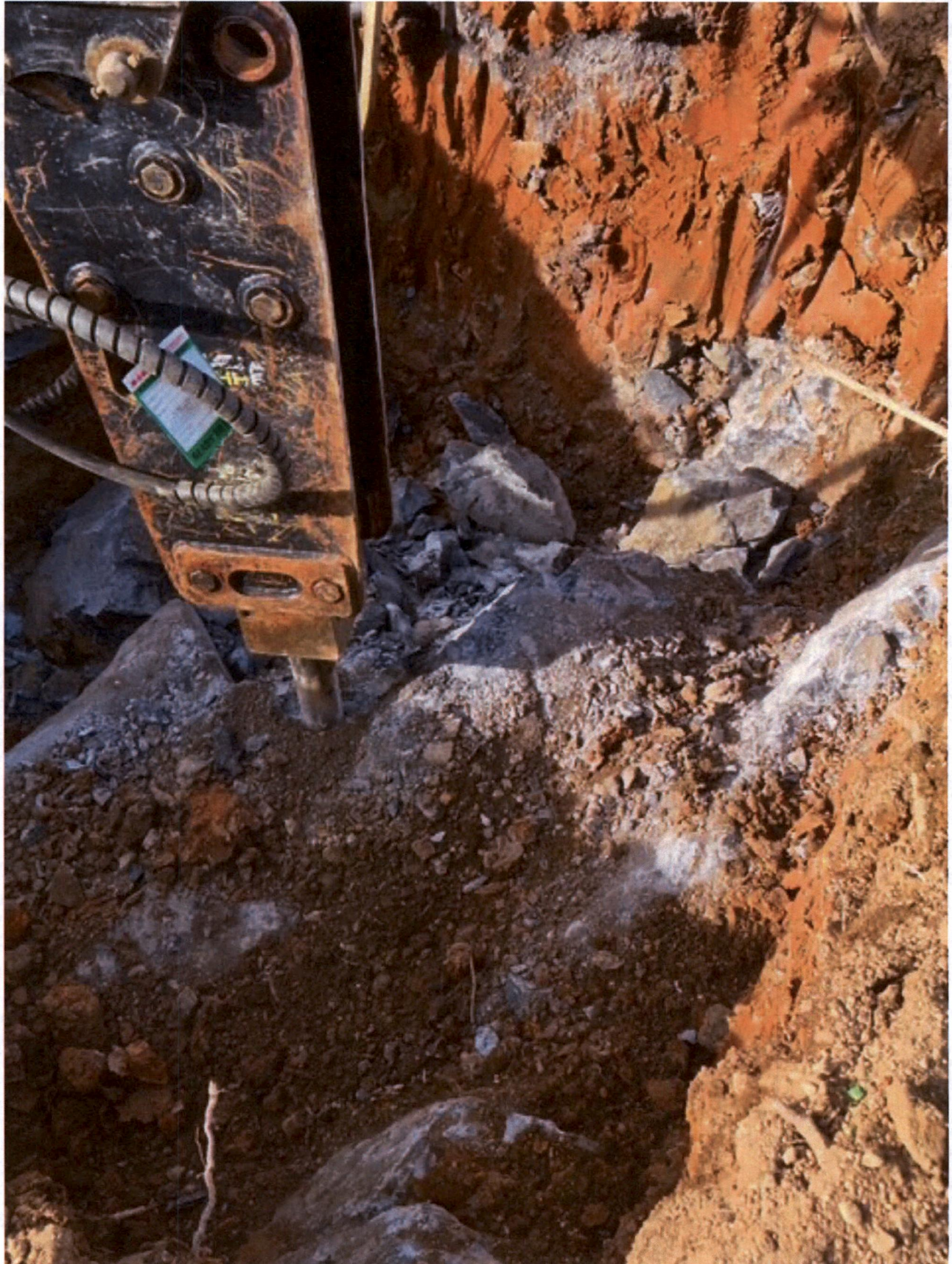
William C. Wantz
123 West Washington Street
Hagerstown, MD 21740
(301) 733-7972
wantz@mac.com

Attorney for AutoZone Development LLC,
Applicant





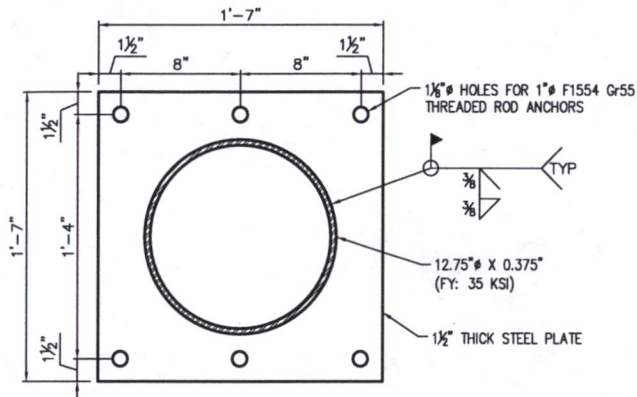








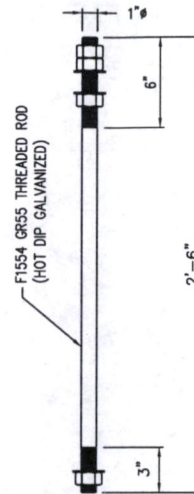
USE EXPERIENCED EXCAVATION CREW TO PERFORM
FOUNDATION EXCAVATION.



SECTION

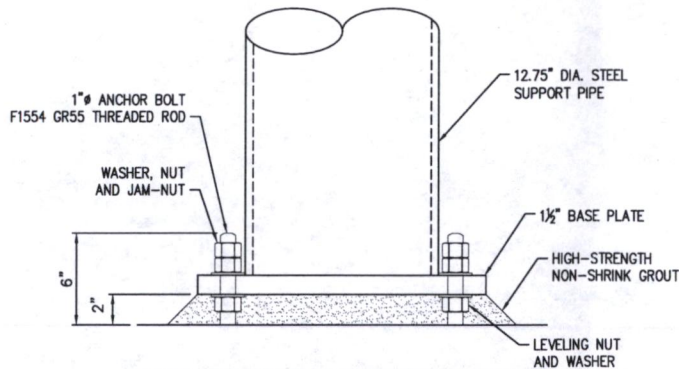
SCALE: $1\frac{1}{2}" = 1'-0"$

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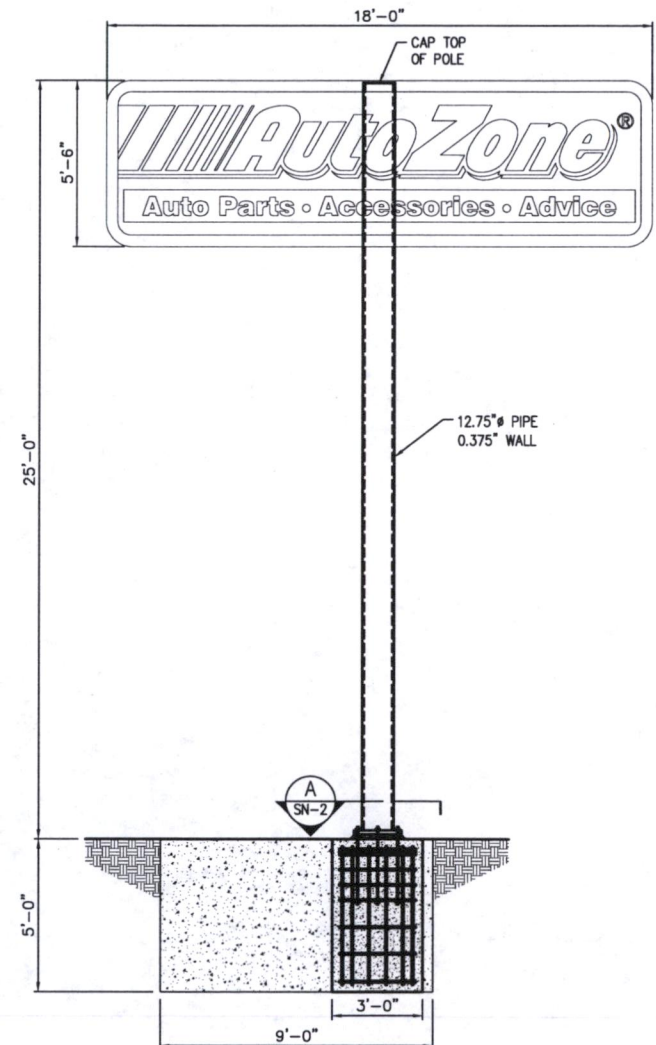
ANCHOR BOLT DETAIL

SCALE: $1\frac{1}{2}" = 1'-0"$



ANCHOR BOLT PROJECTION DETAIL

SCALE: $1\frac{1}{2}" = 1'-0"$



STRUCTURE ELEVATION

SCALE: $\frac{1}{4}" = 1'-0"$

Professional Certification: I hereby certify that these documents
were prepared or approved by me, and that I am a duly licensed
Professional Engineer under the State of Maryland, License No.
59875, expiration date September 11, 2026.



08/27/2025

Drawn	TBG
Checked	ERA
EE Job#	100z6860
Created	08/27/2025

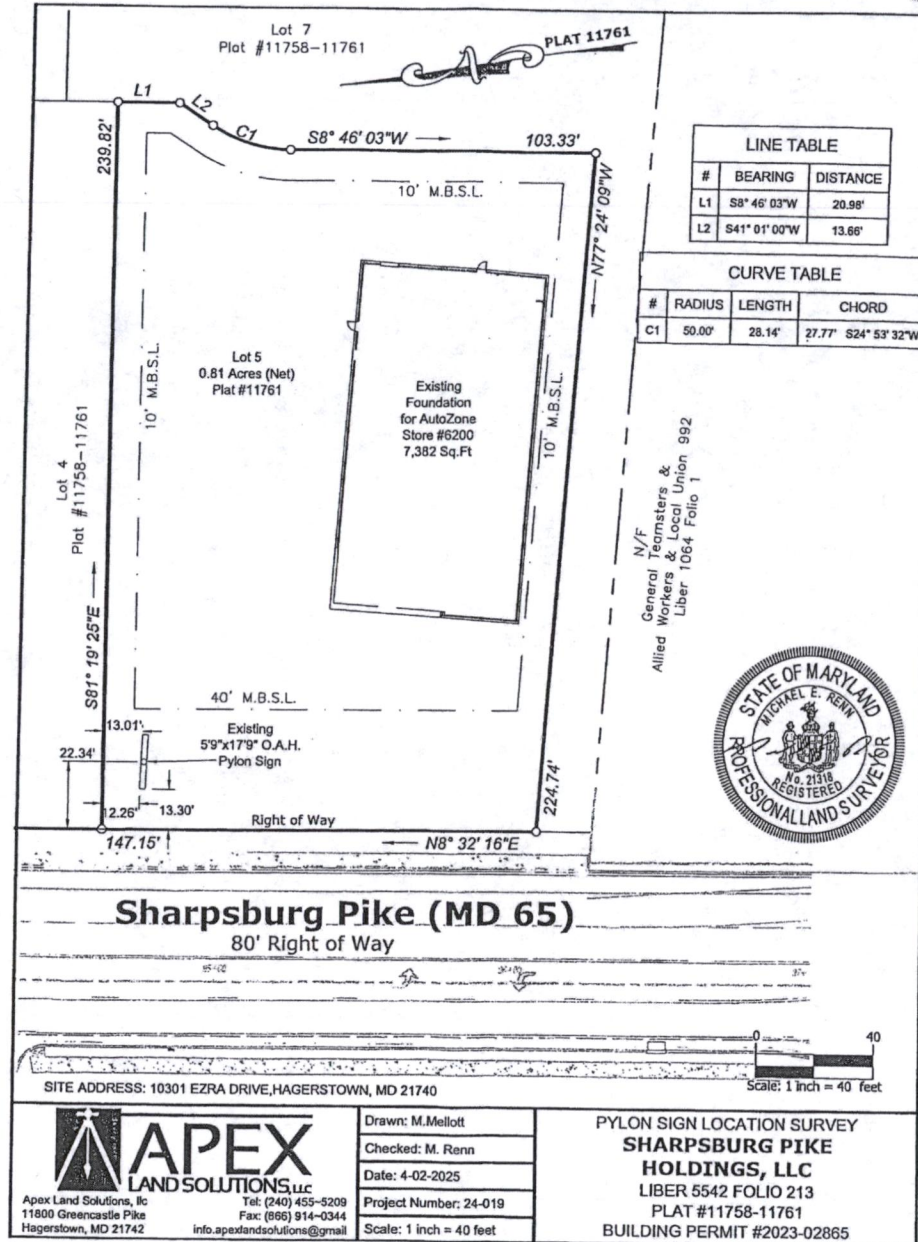


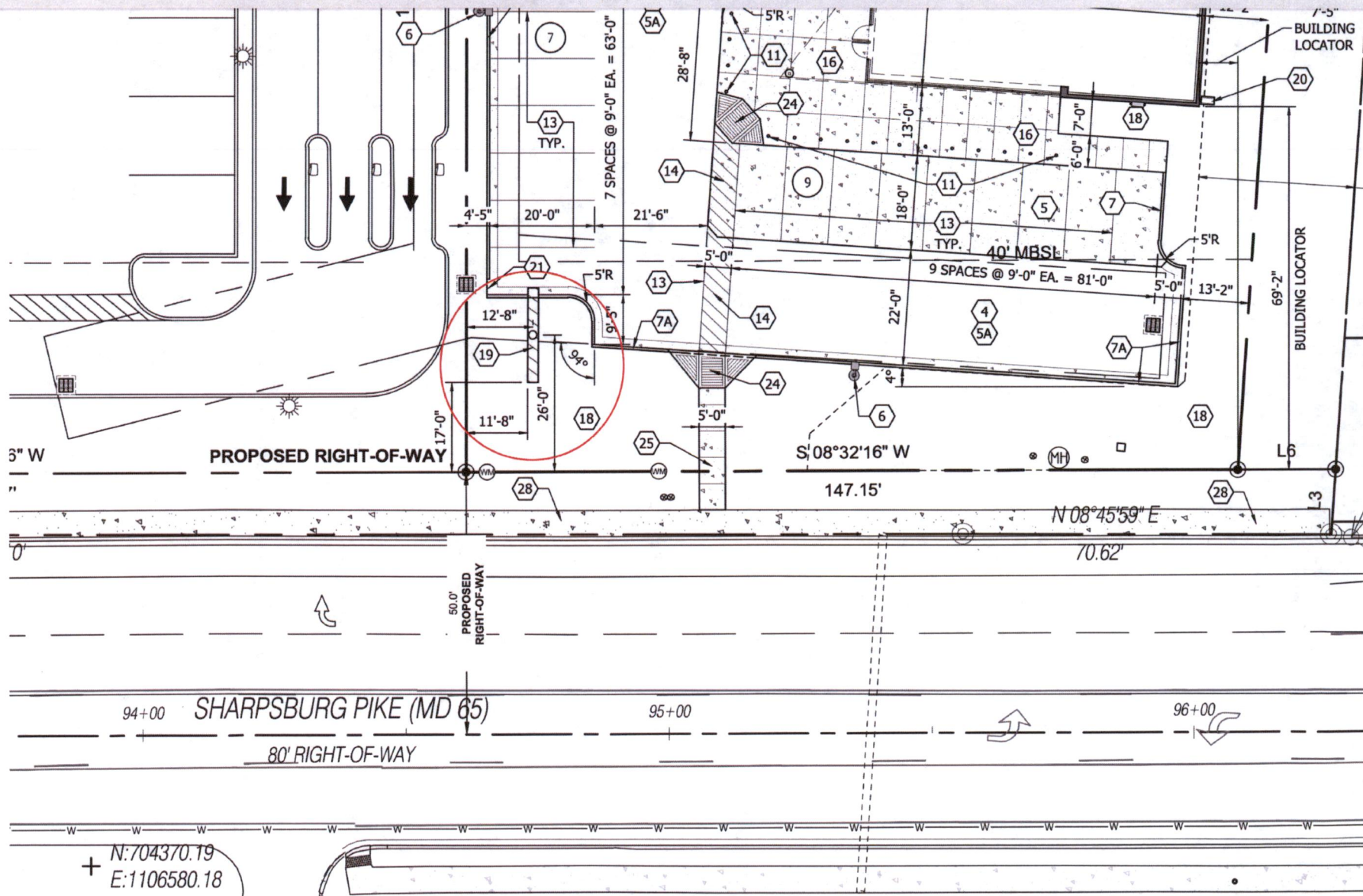
JONES SIGN
1711 SCHEURING RD
DE PERE, WI 54115

25'-0" PYLON RELOCATION
AUTOZONE
10301 EZRA DRIVE
HAGERSTOWN, MD 21740

No.	Date	Revision	By
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SN-2







Washington County
MARYLAND

AUG 18 REC'D

WASHINGTON COUNTY
BOARD OF ZONING APPEALS

August 12, 2025

Sharpsburg Pike Holding, LLC
1741 Dual Highway
Suite B
Hagerstown, MD 21740

RE: *In the Matter of the Petition of Sharpsburg Pike Holding, LLC for Judicial Review of the Decision of the Board of Zoning Appeals for Washington County, Maryland, In the Case of The Denial of Board of Zoning Appeals for Washington County, Maryland, Case No. C-21-CV-25-000390 in the Circuit Court for Washington County, Maryland*

Dear: Sharpsburg Pike Holding LLC:

I am in receipt of the Petition in the above referenced appeal to the Circuit Court for Washington County, Maryland you filed.

Pursuant to Md. Rule 7-206(a), you are required to pay the costs of transcribing the testimony in Case No. AP2025-008, as the petitioner. This office is requesting a deposit of \$850.00. You will be notified of any balance or refund due. This office will not accept transcriptions provided by any other sources.

Please have the check made payable to "Washington County Treasurer" and mailed to my attention at the above address.

If you have any questions, please call me.

Sincerely,

Kathryn Rathvon
Zoning Coordinator

cc: Zachary Kieffer, County Attorney

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

SHARPSBURG PIKE HOLDING, LLC

Appeal No.: AP2025-008

Appellant

* * * * *

OPINION

Sharpsburg Pike Holding, LLC, (hereinafter "Appellant") requests a variance to reduce the required setback from the road right-of-way from 25 feet to 22.34 feet for an installed freestanding sign at the subject property. The subject property is located at 10301 Ezra Drive, Hagerstown, Maryland 21740 and is zoned Highway Interchange. The Board held a public hearing in this matter on May 28, 2025.

This appeal was heard pursuant to Article 25 of the Zoning Ordinance for Washington County and upon proper notice to the parties and general public as required.

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. Appellant is the owner of the subject property located at 10301 Ezra Drive, Hagerstown, Maryland. The subject property is zoned Highway Interchange.
2. The subject property consists of a newly constructed Auto Zone retail store on approximately .81 acres improved by a 7,382 square-foot retail building for an AutoZone store along Sharpsburg Pike.
3. An initial survey was completed and the location of the freestanding sign for the business was planned to meet the setback requirements.
4. During construction, the contractor discovered significant rock and the footer location for the sign moved to accommodate the topography issues. Although the

center of the footer location moved, the contractor believed that it still complied with the setback requirements.

5. Once the footers were poured for the sign, the County conducted an inspection and discovered that the location had moved inside the setback area. By the time this was discovered, the freestanding sign was completely installed.

6. There was no opposition presented to this appeal.

Rationale

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship as set forth in Section 25.2 and 25.56 of the Ordinance.¹ "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. Section 25.56(A).

Practical difficulty and undue hardship are typically the result of a property being unique. "'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions." *North v St. Mary's Cnty.*, 99 Md.App. 502, 514 (1994).

¹ "When the terms unnecessary hardship (or one of its synonyms) and practical difficulty are framed in the disjunctive ("or"), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulty standard to area variances because use variances are viewed as more drastic departures from zoning requirements." *Belvoir Farms Homeowners Ass'n, Inc. v North*, 355 Md. 259, 276 n. 10 (1999) (citations omitted)

Appellant testified that the location of the sign inside the setback area was a complete accident due to movement of the footers during excavation. Although it acknowledged that the contractor should have known to check the measurements again, construction proceeded as is typical for freestanding signs. During her staff report, Ms. Rathvon noted that the County does not inspect for setback compliance until the footers are poured and typically the entire sign or structure is completed by the time any issue is discovered. That appears to be exactly what happened in this case.

However, the Board was not persuaded in this case. The Board raised concerns about the failure to re-measure once the contractor knew that the footer had floated and changed location. The Board considered the timeline of the process given by Ms. Rathvon, but there was still ample opportunity to confirm before proceeding with the remaining construction. Even though it was an honest mistake, it was preventable and self-created. On that basis, the Board is unable to find that a hardship or practical difficulty exists that is related to the inherent characteristics of the property and the application of the setback requirements thereto.

Accordingly, the request for A variance to reduce the required setback from the road right-of-way from 25 feet to 22.34 feet for an installed freestanding sign at the subject property is DENIED by a vote 3 to 2.

BOARD OF APPEALS

By: Tracie Felker, Chair

Date Issued: June 27, 2025

Notice of Appeal Rights

Any party aggrieved by a final order of the Authority in a contested case, whether such decision is affirmative or negative in form, is entitled to file a petition for judicial review of that order to the Circuit Court for Washington County within thirty (30) days of the date of the order.

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

AUTOZONE DEVELOPMENT, LLC

*

Appeal No.: AP2026-012

*

APPELLANT

*

*

* * * * * * * * * * * *

OPINION - POSTPONEMENT

AutoZone Development, LLC (hereinafter "Appellant") request a variance to reduce the required setback from 25 feet to 22.34 feet from the road right-of-way, for an installed freestanding sign at the subject property. The subject property is located at 10301 Ezra Drive, Hagerstown, Maryland 21740 and is zoned Highway Interchange. The Board held a public hearing in this matter on May 13, 2026 and again on July 8, 2026.

Appellant was represented by William C. Wantz, Esq. Kathryn Rathvon provided the Staff Report indicating that proper notice of the hearing was given to adjacent property owners by letter, publication was made in the newspaper, and the subject property was properly posted. There were no letters of support or opposition, and no response or comments received from the State Highway Administration or other agencies or departments. Ms. Rathvon also noted that the property was the subject of a similar variance request which was denied by the Board in a written opinion issued on June 27, 2025.

Appellant began its presentation by offering two (2) alternatives for the Board to consider: (1) that the Board make a finding that this appeal is not substantially similar to the previously denied request pursuant to Section 25.7 of the Ordinance, or (2) that the Board postpone the hearing to a date beyond the twelve (12) month anniversary of the previous decision. Appellant admitted Exhibit 1 which was comprised of the memorandum and case file, and prior opinions, Exhibit 2 which was the previous letter from the State Highway Administration indicating no objection to the sign, and Exhibit 3 which was a letter from the County.

Before proceeding further with the hearing, the Board considered the threshold issue of whether the matter can, and should, go forward. After consideration and discussion, the Board chose to postpone the hearing, and the matter was recalled on July 8, 2026.

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. Sharpsburg Pike Holdings, LLC is the owner of the subject property located at 10301 Ezra Drive, Hagerstown, Maryland. The subject property is zoned Highway Interchange.

2. Appellant is lessee of the subject property.

3. The subject property consists of approximately .81 acres, improved by a 7,382 commercial building operated as an Auto Zone retail store.

4. An initial survey was completed and the location of a freestanding sign for the business was planned to meet the setback requirements.

5. During construction, the contractor discovered significant rock and the footer location moved to avoid as much of the rock as possible. At the time, the sign contractor believed that the footer was still close to its original design location.

6. Once the footers were poured for the sign, the County conducted an inspection and discovered that the location had moved inside the setback area. By the time the contractor, the owner and Appellant were notified of the error, the freestanding sign was completely installed.

7. The owner filed an appeal with this Board, requesting variance relief for the sign foundation. After hearing the testimony and evidence, the Board denied the variance relief in Case No. AP2025-008. An appeal was initially noted to the Circuit Court for Washington County, but was later dismissed.

8. Appellant subsequently filed a new appeal requesting a variance for the sign. The matter was heard on May 13, 2026 at which time the Board determined that no action would be taken because it had not been twelve (12) months since the last appeal.

9. There was no opposition presented to this appeal.

Rationale

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship as set forth in Section 25.2 and 25.56 of the Ordinance.¹ “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. Section 25.56(A).

Practical difficulty and undue hardship are typically the result of a property being unique. “‘Uniqueness’ of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.” *North v St. Mary’s Cnty.*, 99 Md.App. 502, 514 (1994).

The Board welcomed the opportunity to consider this request again and to hear additional information regarding the circumstances. The foreman of the sign contractor testified that very early in the digging, they encountered significant rock. He noted that the rock extended over a large area, back toward the parking lot and there was no way to move the sign foundation further inward.

Appellant also correctly points out that the Board previously focused on the error made by the contractor without considering whether practical difficulty would have resulted from the subsurface rock discovered during construction. It does not appear that the contractor had any choice but to move the sign – albeit it was still error for them to do it

¹ “When the terms unnecessary hardship (or one of its synonyms) and practical difficulty are framed in the disjunctive (“or”), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulty standard to area variances because use variances are viewed as more drastic departures from zoning requirements.” *Belvoir Farms Homeowners Ass’n, Inc. v North*, 355 Md. 259, 276 n. 10 (1999) (citations omitted)

without approval. However, the contractor's mistake does not negate the unique circumstances which prohibit strict compliance with the setbacks at the subject property. Based on the testimony and evidence, it is clear that relaxation of the setback is necessary due to the existence of so much rock in the area where the sign was to be located.

The Board finds that practical difficulty would result from strict compliance with the setback requirements. The variance does not confer any special privilege and is consistent with the uses that other similarly situated properties enjoy. Appellant's request appears to be the minimum necessary to facilitate practical use of the property. The Board finds that relaxation of the setback requirement is necessary and remains consistent with the spirit and intent of the Ordinance. The variance request should be granted.

Accordingly, the request for a variance to reduce the required setback from 25 feet to 22.34 feet from the road right-of-way, for an installed freestanding sign at the subject property is hereby GRANTED, by a vote of 4 to 1. The variance relief is granted subject to the standard condition that the use is consistent with the testimony and evidence presented during the hearing before the Board.

BOARD OF APPEALS

By: Robert Meyers, Acting Chair

Date Issued: August 6, 2026

Notice of Appeal Rights

Any party aggrieved by a final order of the Authority in a contested case, whether such decision is affirmative or negative in form, is entitled to file a petition for judicial review of that order to the Circuit Court for Washington County within thirty (30) days of the date of the order.



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

ZONING APPEAL

Property Owner: Dwight & Kristine Eby
17022 Boardfording Road
Hagerstown MD 21740

Appellant: Hard Rock Excavation
17026 Boardfording Road
Hagerstown MD 21740

Property Location: 17028 Boardfording Road
Hagerstown, MD 21740

Description Of Appeal: Special exception to establish additional area to be used for the previously approved excavation business.

Docket No: AP2026-023
Tax ID No: 13036098
Zoning: A(R)
RB Overlay: No
Zoning Overlay:
Filed Date: 06/09/2026
Hearing Date: 07/08/2026

Appellant's Legal Interest In Above Property:

Owner:	Yes	Contract to Rent/Lease:	No
Lessee:	No	Contract to Purchase:	No
Other:			

Previous Petition/Appeal Docket No(s):

Applicable Ordinance Sections: Washington County Zoning Ordinance Article 3, Table No. 3.3(1), Q

Reason For Hardship:

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Vacant Lot

Proposed Use: Expansion of Excavation Business

Previous Use Ceased For At Least 6 Months:

Date Ceased:

Area Devoted To Non-Conforming Use -

Existing:

Proposed:

I hearby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 10 day of June, 2026.

Nov. 7, 2029

My Commission Expires

Notary Public



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2026-023

State of Maryland Washington County, To Wit:

On 6/9/2026, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Frederick Seibert & Associates and made oath in due form of law as follows:

Frederick Seibert & Associates will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 07/08/2026, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

Sign(s) will be posted on 06/23/2026 and will remain until after the above hearing date.

Frederick Seibert & Associates

Sworn and subscribed before me the day and year first above written.

Notary Public

My Commission Expires

Seal



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

BOARD OF ZONING APPEALS

ATTENTION!

Posting Instructions

The premises MUST be posted in accordance with the following rules:

1. The sign must be posted a minimum of fourteen (14) days prior to the public hearing
Section 25.51(c) Property upon which the application or appeal is concerned shall be posted conspicuously by a zoning notice no less in size than twenty-two (22) inches by twenty-eight (28) inches at least fourteen (14) days before the date of the hearing.
2. The sign must be placed on the property within ten (10) feet of the property line which abuts the most traveled public road.
3. The sign must be posted in a conspicuous manner not over six (6) feet above the ground level, and affixed to a sturdy frame where it will be clearly visible and legible to the public.
4. The sign shall be maintained at all times by the applicant until after the public hearing. If a new sign is needed or required, please contact the Plan Review Department at 240-313-2460.
5. An affidavit certifying the property will be posted for the minimum of fourteen (14) days prior to the public hearing date.

Proper posting of the sign will be spot checked by the Zoning Inspector. IF SIGN IS NOT IN COMPLIANCE, IT MAY RESULT IN RESCHEDULING OF THE HEARING.



Project Name: Hard Rock Excavating Expansion

Owner/Applicant: Hard Rock Excavation c/o Dwight Eby

Project Address: 17028 Broadfording Road

Tax Map 23 **Grid** 23 **Parcel** 568

Account # 13036098

Zoning: A(R)

Special Exception request:

The owner/applicant has operated Hard Rock Excavation at this location as an excavating contractor since Special Exception Application AP2024-024 was approved by the Board of Zoning Appeals on June 26, 2024. The original special exception approval encompassed approximately 3.78 acres.

This current proposal seeks to expand the approved area by an additional 8.47 acres, of which approximately 25% will be dedicated to stormwater management facilities. At the time the original special exception was approved, the subject 8.47-acre property was not available for purchase. Since that time, the property became available on the market, and the applicants seized the opportunity to acquire the additional land needed to support the long-term operational needs of the business.

The proposed expansion will provide the opportunity to improve operational efficiency, establish a more productive workflow, and allow for the storage of natural materials associated with the excavation business. Additional site and operational information is provided within the enclosed site plan.

Currently, the properties exist as separate parcels; however, if this application is approved, the parcels will be consolidated through a replat process.

The applicant has also met with adjacent property owners, who have expressed support for the proposed site improvements and continued use of the property.

Additional information will be provided at the hearing.



Washington County
MARYLAND

BOARD OF ZONING APPEALS

OWNER REPRESENTATIVE AFFIDAVIT

This is to certify that ED SCHREIBER
is authorized to file an appeal with the Washington County Board of Appeals for
SPECIAL EXCEPTION FOR EXPANSION OF CONTRACTORS EQUIP^{STORAGE} on property
located 17028 BROADFORDING ROAD, HAGERSTOWN MD.
The said work is authorized by DWIGHT EBY, HAEDECK EXCAVATING
the property owner in fee.

PROPERTY OWNER

DWIGHT EBY

Name

17028 BROADFORDING ROAD

Address

HAGERSTOWN MD 21740

City, State, Zip Code

Dwight Eby

Owner's Signature

Sworn and subscribed before me this 22 day of May, 2020.

Nikki S. Eichelberger

Notary Public

My Commission Expires:

NIKKI S. EICHELBERGER
NOTARY PUBLIC
WASHINGTON COUNTY
STATE OF MARYLAND
My Commission Expires 9/15/2028

AUTHORIZED REPRESENTATIVE

ED SCHREIBER c/o FSA

Name

128 S. POTOMAC ST

Address

HAGERSTOWN MD 21740

City, State, Zip Code

[Signature]

Authorized Representative's Signature

Sworn and subscribed before me this 2 day of June, 2020.

Nikki S. Eichelberger

Notary Public

My Commission Expires: 9/15/2028

80 West Baltimore Street | Hagerstown, MD 21740 | P: 240.313.2460 | F: 240.313.2461 | Hearing Impaired: 7-1-1

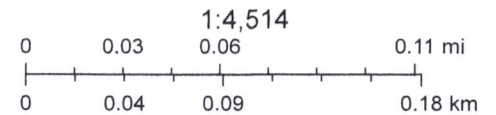
Frederick Seibert & Associates, Inc.



5/12/2026, 3:48:41 PM

World_Transportation

Parcels Washington County



Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community, MD iMAP, DoIT, Esri, HERE, iPC,

Web AppBuilder for ArcGIS

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

HARD ROCK EXCAVATING

Appellants

Appeal No.: AP2024-024

* * * * *

OPINION

Hard Rock Excavating (hereinafter "Appellant") requests a special exception to establish a contractor's equipment and storage yard with office space for an excavation business and a variance to reduce the required setback from 50 feet to 32 feet for the existing dwelling to be converted into commercial office space for the excavating business at the subject property. The subject property is located at 17022 and 17026 Broadfording Road, Hagerstown, Maryland and is zoned Agricultural, Rural. The Board held a public hearing on the matter on June 26, 2024.¹

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. Dwight and Kristine Eby are the owners of the subject property located at 17022 and 17026 Broadfording Road, Hagerstown, Maryland. The property is zoned Agricultural, Rural.
2. The subject property consists of two lots, both improved with a dwelling and the larger lot also improved with multiple detached storage and garage buildings.

¹ The Board had four (4) members present and Appellants were advised of the possibility of a tie vote which would result in a denial of the relief requested. Appellants elected to proceed with the appeal.

3. Hard Rock Excavating was started as a business by Mr. Eby's father in 2004. In 2009, Mr. Eby purchased the business from his father and in 2012, his brother joined him in the business operations. The business has grown exponentially over the years and they now have eight (8) full-time employees.

4. Appellant's business has two (2) dump trucks, four (4) pick-up trucks, a skid steer, mini excavator, forklift and a tractor trailer that require storage.

5. Appellant proposes to utilize the dwelling on the left as a commercial office for its business operation. The dwelling is located approximate 47 feet from the property line, but with the right-of-way dedication for Broadfording Road, the distance is 32 feet.

6. The only regular traffic to the property will be employees coming to retrieve work trucks to travel to job sites. The equipment is generally stored on the job site and will only be at the property when not being used for a project.

7. There was no opposition presented to this appeal.

Rationale

Special Exception Request

The Board has authority to grant a special exception pursuant to Section 25.2(b) of the Zoning Ordinance for Washington County, Maryland. A special exception is defined as "a grant of a specific use that would not be appropriate generally or without restriction; and shall be based upon a finding that the use conforms to the plan and is compatible with the existing neighborhood." Article 28A. In addition, Section 25.6 sets forth the limitations, guides, and standards in exercise of the board's duties and provides:

Where in these regulations certain powers are conferred upon the Board or the approval of the Board is required before a permit may be issued, or the Board is called upon to decide certain issues, the Board shall study the specific property involved, as well as the neighborhood, and consider all testimony and data submitted, and shall hear any

person desiring to speak for or against the issuance of the permit. However, the application for a permit shall not be approved where the Board finds the proposed building, addition, extension of building or use, sign, use or change of use would adversely affect the public health, safety, security, morals or general welfare, or would result in dangerous traffic conditions, or would jeopardize the lives or property of people living in the neighborhood. In deciding such matters, the Board shall consider any other information germane to the case and shall give consideration to the following, as applicable:

- (a) The number of people residing or working in the immediate area concerned.
- (b) The orderly growth of a community.
- (c) Traffic conditions and facilities
- (d) The effect of such use upon the peaceful enjoyment of people in their homes.
- (e) The conservation of property values.
- (f) The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the use of surrounding property values.
- (g) The most appropriate use of the land and structure.
- (h) Decision of the courts.
- (i) The purpose of these regulations as set forth herein.
- (j) Type and kind of structures in the vicinity where public gatherings may be held, such as schools, churches, and the like.

Mr. Eby's testimony and the evidence presented at the hearing suggest there will be limited, if any, impact on the surrounding properties. The subject property is in a rural area with surrounding agricultural business operations. Mr. Eby also testified that none of his neighbors raised any objections when he presented his plan for the property to them.

The Board finds no cause for concern with respect to the number of people residing or working in the area, traffic conditions, nearby public gatherings or the conservation of property values. There will be no odors, gas, smoke, noise, fumes, vibrations or glare produced beyond what is normally expected in an agricultural area. The proposed use will not affect any public gatherings in the vicinity and will be hardly noticeable to anyone other than the immediate and adjacent property owners. The Board finds that the proposed use at the subject property will have no greater "adverse effects above and beyond those inherently associated with such a special exception use irrespective of its

location within the zone.” *Schultz v. Pritts*, 291 Md. 1, 15 (1981). For all these reasons, we conclude that this appeal meets the criteria for a special exception and therefore should be granted.

Variance Request

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship. §§ 25.2(c) and 25.56.² “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).

Practical difficulty and undue hardship are the result of a property being unique. “‘Uniqueness’ of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.” *North v. St. Mary’s Cnty.*, 99 Md. App. 502, 514 (1994).)

Pursuant to Section 5A.6, the front yard setback for the subject property is required to be 50 feet. Appellant has requested a variance to reduce the setback to 32 feet, taking into consideration the additional 15 feet lost for the right-of-way dedication. The

²² “When the terms unnecessary hardship (or one of its synonyms) and practical difficulties are framed in the disjunctive (“or”), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulties standard to area variances because use variances are viewed as more drastic departures from zoning requirements.” *Belvoir Farms Homeowners Ass’n, Inc. v. North*, 355 Md. 259, 276 n.10 (1999) (citations omitted).

dwelling was constructed in 1970, which predates the adoption of the Zoning Ordinance. Setbacks did not exist and therefore could not have been considered at the time the property was laid out. In its current form, the subject property does not conform to the setback requirements and the application of the right-of-way dedication only furthers that nonconformance. These circumstances establish practical difficulty that makes strict conformance with the Ordinance impossible. The request is the minimum necessary to afford relief and does not confer any special benefit upon Appellant. The Board finds that Appellants have satisfied the criteria for variance relief and the variance request should be granted.

Accordingly, the request for a special exception to establish a contractor's equipment and storage yard with office space for an excavation business at the subject property is hereby GRANTED, by a vote of 4 to 0. The accompanying request for a variance to reduce the required setback from 50 feet to 32 feet for the existing dwelling to be converted into commercial office space for the excavating business at the subject property is also GRANTED, by a vote of 4 to 0. The special exception and variance relief are granted subject to the general condition that the use is consistent with the testimony and evidence presented.

BOARD OF APPEALS

By: Robert Meyers, Acting, Chair

Date Issued: July 25, 2024

Notice of Appeal Rights

Any party aggrieved by a final order of the Authority in a contested case, whether such decision is affirmative or negative in form, is entitled to file a petition for judicial review of that order to the Circuit Court for Washington County within thirty (30) days of the date of the order.

ZONING DATA

ZONING DISTRICT	A(R) - AGRICULTURAL RURAL DISTRICT
MINIMUM YARD SETBACK:	
FRONT	50 FT.
SIDE	50 FT.
REAR	50 FT.

SITE DATA

TAX MAP - GRID - PARCEL	0023-0023-0568	
ELECTION DISTRICT	13	
ACCOUNT NUMBER	002223, 036470	
LIBER / FOLIO	04438 / 00183, 05398 / 00494	
AREA SUMMARY	CURRENT	PROPOSED
LOT 3	10.50 AC.	8.95 AC.
LOT 4	8.47 AC.	13.80 AC.
LOT 6	3.78 AC.	
EXISTING IMPERVIOUS	67,201 S.F. / 1.54 AC. (41%)	
PROPOSED TOTAL IMPERVIOUS	NO NEW IMPERVIOUS AREA	
BUILDING FOOTPRINT	3,400 S.F.	
PROPOSED USE	CONTRACTOR EQUIPMENT STORAGE	W/ NATURAL STOCKPILES
HOURS OF OPERATION	6AM - 5PM, MON. - FRI.	
EMPLOYEE SUMMARY	8	
WATER & SEWER USAGE:		
WATER PROVIDED	WASHINGTON COUNTY	
SEWER PROVIDED	PRIVATE SEPTIC	
WASTE & RECYCLABLES:		
SOLID WASTE REMOVAL	DUMPSTER	
RECYCLE REMOVAL	TRASH CANS PRIVATE HAULER	
SITE LIGHTING:		
EXISTING	BUILDING MOUNTED	
PROPOSED	NONE	
SITE SIGNAGE:		
EXISTING	NONE	
PROPOSED	NONE	
ADDRESS ASSIGNMENT	17026 & 17022 BROADFORDING ROAD	
ROAD CLASSIFICATION:		
MINOR COLLECTOR	BROADFORDING ROAD	
FEMA PANEL #	24043C0120D	

17028 BROADFORDING ROAD

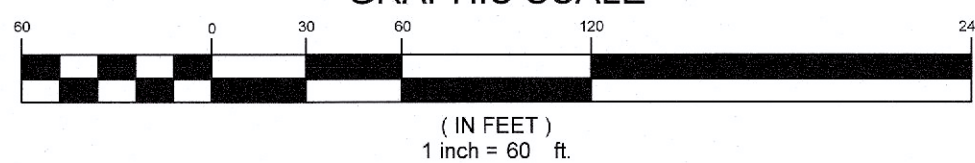
LINE	BEARING	DISTANCE
L1		

PARKING, LOADING & BICYCLE DATA

USE	REQUIREMENT	CALCULATION	REQUIRED
CONTRACTOR	1 SPACE PER EMPLOYEE	8	8 SPACES

TOTAL REQUIRED SPACES	8 SPACES
TOTAL PROVIDED PARKING SPACES	9 SPACES

NOTE: THE CONTRACTOR USE DOES NOT INCLUDE ANY RETAIL OR SHOWROOM SPACE AND THEREFORE DOES NOT GENERATE ANY CUSTOMER VISITS.



Professional Certification:
I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional under the laws of the State of Maryland.
License # _____
Expiration Date _____

FSA
FREDERICK SEBERT & ASSOCIATES, INC.
CIVIL ENGINEERS • LANDSCAPE ARCHITECTS • LAND PLANNERS

1114 E. HILLMAN STREET
HAGERSTOWN, MD 21740
410.326.6666
FSA@FSA-INC.COM

DATE	DESCRIPTION

HARD ROCK EXCAVATING

17028 BROADFORDING RD
HAGERSTOWN MD 21740
WASHINGTON COUNTY, MARYLAND
HARD ROCK EXCAVATING
17028 BROADFORDING RD HAGERSTOWN MD 21740
301-561-5452

PROJECT NO.	4976.2
DRAWN BY	AGH
DATE	02-24-2026
PROJECT MANAGER	A. HAGER
EMAIL	ahager@fss-inc.com
Tax map	23-23-568
SCALE	1" = 60'
SHEET TITLE	C-101

SPECIAL EXCEPTION
EXHIBIT

C-101
SHEET 01 OF 01

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

HARD ROCK EXCAVATING

*
*
*
*

Appeal No.: AP2026-023

APPELLANT

* * * * * * * * * * * *

OPINION

Hard Rock Excavating (hereinafter “Appellant”) requests a special exception to establish additional area to be used for the previously approved excavation business at the subject property. The subject property is located at 17028 Broadfording Road, Hagerstown, Maryland 21740 and is zoned Agricultural, Rural. The Board held a public hearing in this matter on July 8, 2026.

This appeal was heard pursuant to Article 25 of the Zoning Ordinance for Washington County and upon notice to the parties and general public as required. Kathryn Rathvon provided the Staff Report indicating that proper notice of the hearing was given to adjacent property owners by letter, publication was made in the newspaper, and the subject property was properly posted.

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. Dwight and Kristine Eby are the owners of the subject property located at 17028 Broadfording Road, Hagerstown, Maryland 21740. The property is zoned Agricultural, Rural.
2. The subject property consists of approximately 8.47 acres immediately adjacent to the existing business property. The subject property became available for purchase in 2024, but after Appellant sought special exception approval from this Board.
3. Hard Rock Excavating was started as a business by Mr. Eby’s father in 2004. IN 2009, Mr. Eby purchased the business from his father and in 2012, his brother joined in

the business operations. The business has grown exponentially over the years, and they now have ten (10) full-time employees.

4. Appellant's business has several pieces of equipment including dump trucks, pick-up trucks, skid steer, forklift, excavators and a tractor trailer that requires storage.

5. The only regular traffic to the property will be employees coming to retrieve work trucks to travel to job sites. The equipment is generally stored on the job site and will only be at the property when not being used for a project.

6. In July 2024, Appellant received approval for a special exception to establish a contractor's equipment and storage yard for the excavating business at the adjoining properties in Case No. AP2026-024.

7. Appellant now proposes to expand storage and operations to the subject property which adjoins the existing business property.

8. The Engineering Department provided comments regarding compliance with all site plan requirements. There were no other comments from any County agencies or departments.

9. The Board did not receive any letters of support or opposition.

10. There was no opposition presented to this appeal.

Rationale

The Board has authority to grant a special exception pursuant to Section 25.2(b) of the Zoning Ordinance for Washington County, Maryland. A special exception is defined as "a grant of a specific use that would not be appropriate generally or without restriction; and shall be based upon a finding that the use conforms to the plan and is compatible with the existing neighborhood." Article 28A. In addition, Section 25.6 sets forth the limitations, guides, and standards in exercise of the board's duties and provides:

Where in these regulations certain powers are conferred upon the Board or the approval of the Board is required before a permit may be issued, or the Board is called upon to decide certain issues, the Board shall study the specific property involved, as well as the neighborhood, and consider all testimony and data submitted, and shall hear any person desiring to speak for or against the issuance of the permit. However, the application for a permit shall not be approved where the Board finds the proposed building, addition, extension of building or use, sign, use or change of use would adversely

affect the public health, safety, security, morals or general welfare, or would result in dangerous traffic conditions, or would jeopardize the lives or property of people living in the neighborhood. In deciding such matters, the Board shall consider any other information germane to the case and shall give consideration to the following, as applicable:

- (a) The number of people residing or working in the immediate area concerned.
- (b) The orderly growth of a community.
- (c) Traffic conditions and facilities
- (d) The effect of such use upon the peaceful enjoyment of people in their homes.
- (e) The conservation of property values.
- (f) The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the use of surrounding property values.
- (g) The most appropriate use of the land and structure.
- (h) Decision of the courts.
- (i) The purpose of these regulations as set forth herein.
- (j) Type and kind of structures in the vicinity where public gatherings may be held, such as schools, churches, and the like.

As with the previous appeal in 2024, the testimony and evidence suggest there will be limited, if any, impact on the surrounding properties. The property is located in a rural area with surrounding agricultural operations and upon speaking to the neighbors, Mr. Eby reported there were no objections.

The Board finds no cause for concern with respect to the number of people residing or working in the area, traffic conditions, nearby public gatherings or the conservation of property values. There will be no odors, gas, smoke, noise, fumes, vibrations or glare produced beyond what is normally expected in an agricultural area. The proposed expansion will not affect any public gatherings in the vicinity and will be hardly noticeable to anyone other than the immediate and adjacent property owners, of which the Ebys are one. The Board finds that the proposed expansion at the subject property will have no greater “adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. *Schultz v. Pritts*, 291 Md. 1, 15 (1981). Any impact would result from the proposed use would have similar impact regardless of the location in the zoning district and thus it is not unique to the subject property. Moreover, the Board finds that the proposed use is a logical expansion of the existing, previously approved operation and does not change the impact on the surrounding area. For all these reasons, we conclude that this appeal meets the criteria for a special exception, and Appellant’s request

should be granted.

Accordingly, the request for a special exception to establish additional area to be used for the previously approved excavation business at the subject property is hereby GRANTED, by a vote of 5 to 0. The special exception is granted subject to the standard condition that the use is consistent with the testimony and evidence presented during the hearing before the Board.

BOARD OF APPEALS

By: Robert Meyers, Acting Chair

Date Issued: August 6, 2026

Notice of Appeal Rights

Any party aggrieved by a final order of the Authority in a contested case, whether such decision is affirmative or negative in form, is entitled to file a petition for judicial review of that order to the Circuit Court for Washington County within thirty (30) days of the date of the order.



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

ZONING APPEAL

Property Owner: Faith & Jesse Leisinger
4931 Mt. Briar Road
Keedysville MD 21756

Appellant: Oliver Homes Inc
19733 Leitersburg Pike
Hagerstown MD 21742

Property Location: 4931 Mount Briar Road
Keedysville, MD 21756

Description Of Appeal: Variance from the required 15 ft. side yard setback to 13 ft. for constructed foundation of single-family dwelling.

Docket No: AP2026-024
Tax ID No: 19067061
Zoning: P
RB Overlay: No
Zoning Overlay:
Filed Date: 06/18/2026
Hearing Date: 07/08/2026

Appellant's Legal Interest In Above Property:

Owner:	Yes	Contract to Rent/Lease:	No
Lessee:	No	Contract to Purchase:	No
Other:			

Previous Petition/Appeal Docket No(s):

Applicable Ordinance Sections: Washington County Zoning Ordinance Article 5C, Section 5C.5

Reason For Hardship: Foundation shifted during construction

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Residential Lot **Proposed Use:** Single-Family Dwelling

Previous Use Ceased For At Least 6 Months: **Date Ceased:**

Area Devoted To Non-Conforming Use - **Existing:**
Proposed:

I hearby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 18 day of June, 20 26.

Nov. 7, 2029

My Commission Expires

Notary Public



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2026-024

State of Maryland Washington County, To Wit:

On 6/18/2026, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Faith & Jesse Leisinger and made oath in due form of law as follows:

Faith & Jesse Leisinger will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 07/08/2026, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

Sign(s) will be posted on 06/23/2026 and will remain until after the above hearing date.

Oliver Homes Inc.

Sworn and subscribed before me the day and year first above written.

Notary Public

My Commission Expires



Seal



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

BOARD OF ZONING APPEALS

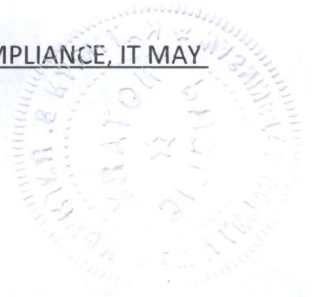
ATTENTION!

Posting Instructions

The premises MUST be posted in accordance with the following rules:

1. The sign must be posted a minimum of fourteen (14) days prior to the public hearing
Section 25.51(c) Property upon which the application or appeal is concerned shall be posted conspicuously by a zoning notice no less in size than twenty-two (22) inches by twenty-eight (28) inches at least fourteen (14) days before the date of the hearing.
2. The sign must be placed on the property within ten (10) feet of the property line which abuts the most traveled public road.
3. The sign must be posted in a conspicuous manner not over six (6) feet above the ground level, and affixed to a sturdy frame where it will be clearly visible and legible to the public.
4. The sign shall be maintained at all times by the applicant until after the public hearing. If a new sign is needed or required, please contact the Plan Review Department at 240-313-2460.
5. An affidavit certifying the property will be posted for the minimum of fourteen (14) days prior to the public hearing date.

Proper posting of the sign will be spot checked by the Zoning Inspector. IF SIGN IS NOT IN COMPLIANCE, IT MAY RESULT IN RESCHEDULING OF THE HEARING.





Board of Appeals

747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | F: 240.313.2461 | Hearing Impaired: 7-1-1

WWW.WASHCO-MD.NET

Variance Request

Property Location 4931 Mount Briar Road, Keedysville, MD 21756

Appellant's present legal interest in above property: (Check One)

☒ Owner (Including Joint Ownership)

☐ Lessee

☐ Contract to rent/lease

☐ Contract to Purchase

Other _____

Specify the Ordinance section and subsection from which the variance is desired:

Example: Article 5A, Section 5A.5-Requires 15 ft. side yard setback.

Article 5C, Section 5C.5, Residential Lot Size and Bulk Dimensions - Requires 15ft side yard setback

Describe the nature and extent of the desired variance from Ordinance requirements listed above:

Example: Requesting adjustment from 15 ft. to 12 ft. for new detached garage.

Desired variance is to reduce the 15ft side yard setback requirements to a 12.8 foot side yard setback

13.0 MBO

Applicants must make application in person and shall submit *nine (9)* complete sets of the items listed below. Incomplete applications will not be accepted.

- A written statement demonstrating the specific reason(s) for the adjustment request including which standard the appeal is for practical difficulty or undue hardship. The standards for a variance are outlined in the Variance Filing Procedures.
- A plot plan (concept plan), drawn to a scale indicating the following information:
 - Outline of the entire property;
 - Location of all existing and/or proposed structures with measurements from structures to property lines;
 - Location of existing and/or future septic and wells;
 - Any street rights-of-way or other easements (i.e. utility, storm water management, etc.);
 - Existing/proposed entrance/exit to property, driveways, etc.
 - Existing/proposed parking areas
- If Request is for commercial use, in addition to above, the following additional information will be required:
 - Location of any freestanding signage
 - Number of employees (existing/proposed)
 - Hours of operation
 - Proposed landscaping and lighting

PAGE TWO
VARAINCE REQUEST

- Other information that applicants feel will be useful to justify their request, this could include pictures, letters of support from impacted neighbors, concept draws of the structure.
- If you are not the property owner, a notarized affidavit from the property owner authorizing the appeal shall be submitted. This includes applicants filing as an agent on behalf of the property owner.
- Pay the filing fee by cash, Visa/MasterCard, or check made payable to the Washington County Treasurer:
 - Residential Variance.....\$150.00
 - Commercial Variance.....\$300.00**ALL FILING FEES ARE NON-REFUNABLE**

Note: A plan review fee of \$150 and/or floodplain review of \$150.00 may be charged by the Engineering Department.

I hereby certify that I have, to the best of my knowledge, accurately supplied the information required for the above referenced appeal.



Signature of Appellant/Agent

mark@oliverhomes.com

Email of Appellant/Agent

Mark B. Oliver, DBA Oliver Homes, Inc.
19733 Leitersburg, Pike
Hagerstown, MD 21742

Address and of Appellant/Agent

301-797-0000

Phone Number of Appellant/Agent

June 17, 2026

Faith and Jesse Leisinger
4931 Mt Briar Road
Keedysville, MD 21756

BZA Variance Criteria

The subject property is known as Tax Map 0077, Grid 0020 and Parcel 0390 per the Maryland Department of Assessment and is same property described in the conveyance between Joseph W. Geraci and Dawn Geraci unto Faith Marie Leisinger and Jesse Lee Leisinger and recorded among the land records of Washington County, Maryland in Deed Book 7114 at Page 357. The current Owner is in the process of constructing a residential single-family dwelling.

B. Undue Hardship

1. Strict compliance with the Ordinance would prevent the applicant from making reasonable use of the property without substantial reconstruction of the existing foundation. The owner and general contractor had originally positioned the approved dwelling location approximately 1 foot clear of the required side-yard setback in compliance with the Ordinance. During construction, the foundation contractor shifted the foundation approximately 3 feet to the north. As a result of the foundation adjustment, the foundation was constructed approximately 2 feet into the required 15 foot side-yard setback. Compliance at this stage would require demolition and reconstruction of the foundation, resulting in significant expense.
2. The hardship is peculiar to this property. The approved dwelling location was originally positioned approximately 1 foot clear of the required side-yard setback. During construction, the foundation was shifted approximately 3 feet to the north, resulting in the foundation being located approximately 2 feet into the required side-yard setback. These circumstances are unique to this property and are not generally shared by other properties within the district.
3. The hardship is not the result of the applicant's own actions. The property owner neither directed nor authorized the relocation of the foundation and was unaware that the foundation had been shifted during construction. The requested variance is the minimum relief necessary to address the resulting condition.



Washington County MARYLAND

BOARD OF APPEALS

OWNER REPRESENTATIVE AFFIDAVIT

This is to certify that Mark Oliver/Oliver Homes, Inc.
is authorized to file an appeal with the Washington County Board of Appeals for
Variance associated with a side-yard setback on property
located 4931 Mt Brin Rd Keedysville, MD 21756.
The said work is authorized by Faith Leisinger
the property owner in fee.

PROPERTY OWNER

Faith Leisinger
Name
4931 Mt. Brin Road
Address
Keedysville, MD 21756
City, State, Zip Code
Faith Leisinger
Owner's Signature

Sworn and subscribed before me this FL day of 6/17/26, 20 26.

Melody A. Pae
Notary Public

My Commission Expires:

November 15, 2027

AUTHORIZED REPRESENTATIVE

Mark Oliver/Oliver Homes, Inc.
Name
19733 Leitersburg Pike
Address
Hagerstown, MD 21742
City, State, Zip Code
[Signature]
Authorized Representative's Signature

Sworn and subscribed before me this 16TH day of June, 20 26.

Melody A. Pae
Notary Public

My Commission Expires:

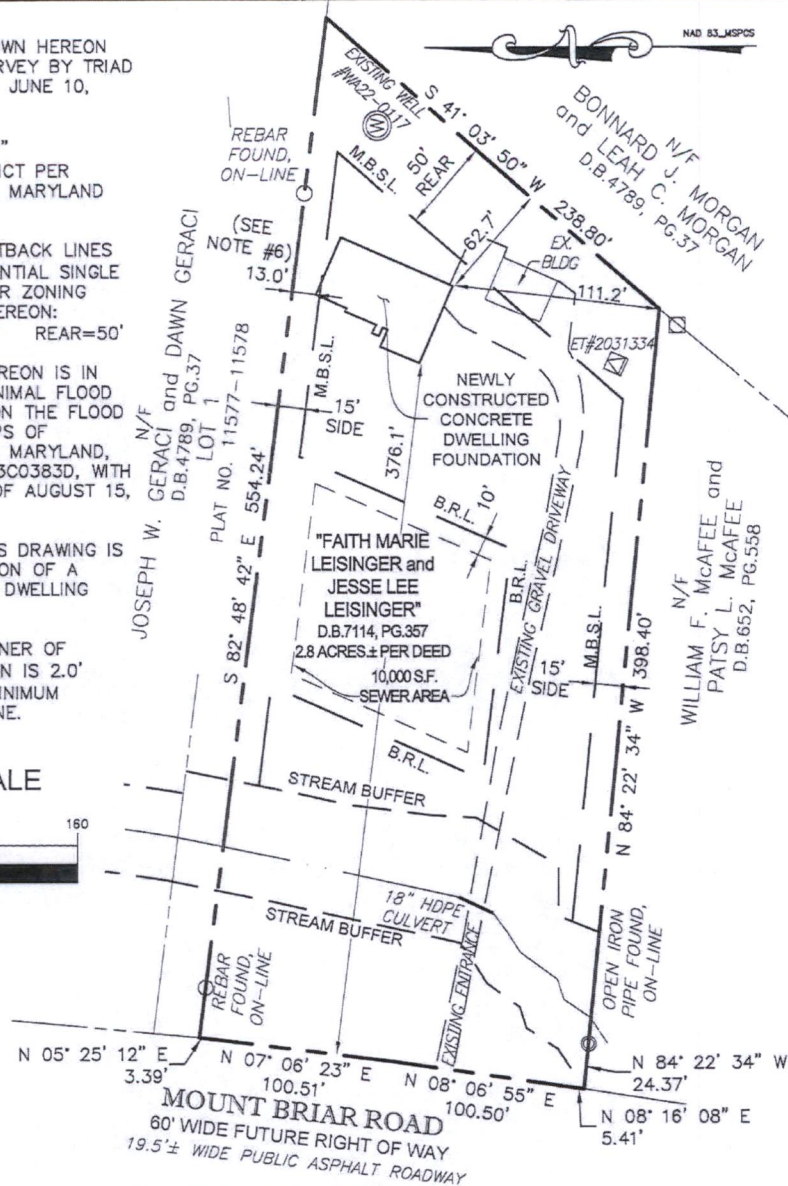
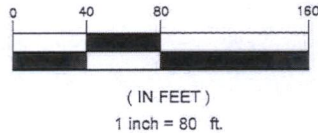
November 15, 2027

747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | F: 240.313.2461 | Hearing Impaired: 7-1-1

NOTES:

- BOUNDARY LINES SHOWN HEREON ARE PER A FIELD SURVEY BY TRIAD ENGINEERING, INC. ON JUNE 10, 2026.
- CURRENTLY ZONED "P" (PRESERVATION) DISTRICT PER WASHINGTON COUNTY, MARYLAND ZONING ORDINANCE.
- MINIMUM BUILDING SETBACK LINES (M.B.S.L.) FOR RESIDENTIAL SINGLE FAMILY DWELLINGS PER ZONING ORDINANCE SHOWN HEREON: FRONT=40' SIDE=15' REAR=50'
- PROPERTY SHOWN HEREON IS IN ZONE X, AREA OF MINIMAL FLOOD HAZARD AS SHOWN ON THE FLOOD INSURANCE RATE MAPS OF WASHINGTON COUNTY, MARYLAND, PANEL NUMBER 24043C0383D, WITH AN EFFECTIVE DATE OF AUGUST 15, 2017.
- THE PURPOSE OF THIS DRAWING IS TO SHOW THE LOCATION OF A NEWLY CONSTRUCTED DWELLING FOUNDATION.
- THE LEFT FRONT CORNER OF CONCRETE FOUNDATION IS 2.0' OVER THE 15' SIDE MINIMUM BUILDING SETBACK LINE.

GRAPHIC SCALE

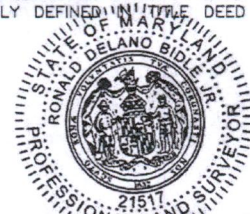


SURVEYOR'S STATEMENT

TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND JUDGEMENT, I HAVE PERSONALLY PREPARED A FOUNDATION AS-BUILT OR WAS IN RESPONSIBLE CHARGE OVER ITS PREPARATION AND THE SURVEY WORK REFLECTED IN IT, IN COMPLIANCE WITH REQUIREMENTS SET FORTH IN "COMAR" TITLE 09, SUBTITLE 13, CHAPTER 06, REGULATION .12, BEING ALL OF THE LAND CONVEYED BY JOSEPH W. GERACI AND DAWN GERACI UNTO FAITH MARIE LEISINGER AND JESSE LEE LEISINGER BY DEED DATED SEPTEMBER 27, 2022 AND RECORDED AMONG THE LAND RECORDS OF WASHINGTON COUNTY, MARYLAND IN DEED BOOK 7114, AT PAGE 357, AND THAT THE FOUNDATION SHOWN HEREON WAS LOCATED BY ACCEPTED FIELD PRACTICES ON JUNE 9, 2026. THIS PLAT IS NOT FOR DETERMINING PROPERTY LINES, BUT PREPARED FOR EXCLUSIVE USE OF PRESENT OWNERS OF PROPERTY AND ALSO THOSE WHO PURCHASE, MORTGAGE, OR GUARANTEE THE TITLE THERETO, AND AS TO THEM I WARRANT THE ACCURACY OF THIS PLAT. THIS PLAT IS OF BENEFIT TO A CONSUMER ONLY INsofar AS IT IS REQUIRED BY A LENDER OR A TITLE INSURANCE COMPANY OR ITS AGENT IN CONNECTION WITH THE CONTEMPLATED TRANSFER, FINANCING, OR RE-FINANCING. PROPERTY CORNERS HAVE NOT BEEN ESTABLISHED OR SET BY THIS FIRM. PROPERTY LINES SHOWN HAVE BEEN TAKEN FROM EXISTING FIELD MONUMENTATION AND/OR SURVEYS AND CURRENT DEEDS OF RECORD. THIS PLAT IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OR LOCATION OF FENCES, GARAGES, BUILDINGS, OR OTHER EXISTING OR FUTURE IMPROVEMENTS. THIS PLAT DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES, BUT SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR SECURING FINANCING. WE ASSUME NO RESPONSIBILITY FOR ANY RIGHTS OF WAY, EASEMENTS OR SETBACK LINES RECORDED OR UNRECORDED, NOT APPEARING ON THE RECORD PLAT AND/OR CLEARLY DEFINED IN THE DEED REFERRED TO HEREON. NO TITLE REPORT FURNISHED.

06/10/2026
DATE

RONALD D. BIDLE, JR.
MARYLAND REGISTRATION #21517
EXPIRES: 07/13/2027



CADD FILE:
03260137-WC

DRAWN BY:
C.W.J.

DATE:
06/10/2026

CHECKED BY:
R.D.B.

SCALE:
1"=80'

FOUNDATION AS-BUILT
FAITH M. AND JESSE L. LEISINGER
SITUATED ALONG THE EAST SIDE OF MOUNT BRIAR ROAD IN
KEEDYSVILLE, WASHINGTON COUNTY, MARYLAND
ELECTION DISTRICT: #19 TAX MAP: 0077 PARCEL: 0390
JOB NO: 03-26-0137

SHEET 1 of 1

TRIAD
ENGINEERING, INC.
www.triadeng.com
1075-D SHERMAN AVENUE
HAGERSTOWN, MD 21740

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

OLIVER HOMES, INC.

* **Appeal No.: AP2026-024**

*

APPELLANT

*

*

* * * * * * * * * * *

OPINION

Oliver Homes, Inc. (hereinafter “Appellant”) requests a variance to reduce the required side yard setback from 15 feet to 13 feet for a constructed foundation of a single-family dwelling at the subject property. The subject property is located at 4931 Mount Briar Road, Keedysville, Maryland 21756 and is zoned Preservation. The Board held a public hearing in this matter on July 8, 2026.

The appeal was heard pursuant to Article 25 of the Zoning Ordinance for Washington County and upon notice to the parties and general public as required. Kathryn Rathvon provided the Staff Report indicating that proper notice of the hearing was given to adjacent property owners by letter, publication was made in the newspaper, and the subject property was properly posted.

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 subject property is owned by Faith and Jesse Leisinger.
2. Appellant is the contractor hired by the owners to construct a single-family dwelling at the subject property. Appellant has permission from the owners to pursue this appeal.
3. The subject property consists of approximately 2.8 acres situated on the east side of Mount Briar Road. The property is surrounded by other residential properties and there is an existing garage structure located toward the rear boundary line.
4. The owners contracted Appellant to construct a single-family dwelling on the

property. Upon pouring the foundation walls, it was discovered that the structure was 13 feet from the side yard property line rather than the required 15 feet.

5. There is no way to move the foundation without demolition and incurring significant expense to rebuild the foundation.

6. The proposed location for the house was chosen to align with the driveway and to connect with the existing garage to the rear.

7. The Board received one (1) letter of support for the appeal and there were no comments provided from other agencies or departments.

8. There was no opposition presented to this appeal.

Rationale

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship as set forth in Section 25.2 and 25.56 of the Ordinance.¹ “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. Section 25.56(A).

Practical difficulty and undue hardship are typically the result of a property being unique. “‘Uniqueness’ of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such

¹ “When the terms unnecessary hardship (or one of its synonyms) and practical difficulty are framed in the disjunctive (“or”), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulty standard to area variances because use variances are viewed as more drastic departures from zoning requirements.” *Belvoir Farms Homeowners Ass’n, Inc. v North*, 355 Md. 259, 276 n. 10 (1999) (citations omitted)

as obstructions) or other similar restrictions.” *North v St. Mary’s Cnty.*, 99 Md.App. 502, 514 (1994).

Pursuant to Section 5C of the Zoning Ordinance, the side yard setback for the subject property is 15 feet. Mark Oliver testified that the layout of the home was chosen to tie into the existing garage and driveway, which meant turning the home. The result was that the left front corner of the home was closer to the side yard boundary than the rest of the home. Mr. Oliver believes that the layout shifted but probably appeared correct given the over dig. Now that the foundation walls are poured, the only way to comply with the 15-foot requirement would be to demolish the existing work and start over. Mr. Oliver testified that this would result in great expense.

The Board finds that practical difficulty would result from strict compliance with the setback requirements. The variance does not confer any special privilege and is consistent with the uses that other similarly situated properties enjoy. Appellant’s request appears to be the minimum necessary to facilitate practical use of the property. The Board finds that relaxation of the setback requirement is necessary and remains consistent with the spirit and intent of the Ordinance. The variance request should be granted.

Accordingly, the request for a variance to reduce the required side yard setback from 15 feet to 13 feet for a constructed foundation of a single-family dwelling at the subject property is hereby GRANTED, by a vote of 5 to 0. The variance relief is granted subject to the standard condition that the use is consistent with the testimony and evidence presented during the hearing before the Board.

BOARD OF APPEALS

By: Robert Meyers, Acting Chair

Date Issued: August 6, 2026

Notice of Appeal Rights

Any party aggrieved by a final order of the Authority in a contested case, whether such decision is affirmative or negative in form, is entitled to file a petition for judicial review of that order to the Circuit Court for Washington County within thirty (30) days of the date of the order.