

BOARD OF APPEALS

August 3, 2022

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

AGENDA

DOCKET NO. AP2022-033: An appeal was made by Faith Christian Fellowship Church of Halfway for a variance from the required 25 ft. setback from the street right-of-way to 0 ft. for proposed freestanding sign on property owned by the appellant and located at 16726 Lappans Road, Williamsport, Zoned Agricultural Rural.-**GRANTED**

DOCKET NO. AP2022-034: An appeal was made by Outdoor Contractors Inc. for a special exception to establish a general retail/merchandise store on property owned by George & Freada King and located on the vacant lot next to 14413 McAfee Hill Road, Cascade, Zoned Rural Village.-**APPEAL POSTPONED TO AUGUST 31, 2022 HEARING.-GRANTED WITH CONDITIONS**

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 July 25, 2022. 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.

Jay Miller, Chairman
Board of Zoning Appeals

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

**FAITH CHRISTIAN FELLOWSHIP
CHURCH OF HALFWAY
Appellant**

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Appeal No.: AP2022-033

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OPINION

Faith Christian Fellowship Church of Halfway (hereinafter "Appellant") requests a variance from the required 25-foot setback from the street right-of-way to 0 feet for a proposed freestanding sign at the subject property. The subject property is located at 16726 Lappans Road, Williamsport, Maryland and is zoned Agricultural, Rural. The Board held a public hearing in this matter on August 3, 2022.

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. The subject property is located at 16726 Lappans Road, Williamsport, Maryland and is owned by Appellant. The subject property is zoned Agricultural, Rural.
2. The subject property is situated along Lappans Road and consists of the Faith Christian Fellowship Church of Halfway.
3. The subject property was the subject of a previous variance request for a sign to be located within the State Highway right-of-way in Case No. 94-147. Appellant's

predecessor in ownership obtained variance approval to establish a sign for the existing church on the property.

4. At the time of purchase, the subject property was subdivided into two (2) parcels. Appellant recently discovered that the existing sign is on the second parcel.

5. A new owner recently purchased the second parcel and has demanded that Appellant pay rent for the existing sign.

6. Appellant proposes to construct a new sign right along the State Highway right-of-way on the subject property.

7. The proposed sign will be approximately four (4) feet tall, consist of three (3) posts and will not be lighted except possibly with downward facing solar lights.

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. §§ 25.2(c) and 25.56.¹ “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. § 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

¹ “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).

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).)

In the instant case, the evidence clearly establishes a practical difficulty. As a result of the right-of-way reserved for State Highway, the setback lines for the subject property are situated a greater distance the existing roadway. Appellant seeks to relocate its existing sign onto the church parcel but maintain visibility to traffic and visitors. This cannot be achieved with strict compliance because it would require an additional 25 feet to the distance already setback from the road to allow for the right-of-way. Appellant would be prevented from making reasonable use of the property, namely, the ability to properly announce the church's location for visitors and the public with adequate visibility. The variance relief requested would allow for such reasonable use and thus, would observe spirit of the Zoning Ordinance.

Accordingly, the request for a variance from the required 25-foot setback from the street right-of-way to 0 feet for a proposed freestanding sign at the subject property is GRANTED, by a vote of 5-0. The application is granted upon the condition that the proposed use be consistent with the testimony and evidence presented herein.

BOARD OF APPEALS

By: Jay Miller, Chair

Date Issued: August 29, 2022

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.