

BOARD OF APPEALS

April 17, 2019

County Administration Building, 100 W. Washington St., Meeting Room 2000, Hagerstown, at 7:00 p.m.

AGENDA

DOCKET NO. AP2019-003: An appeal made by Trustees of Saint James School for a variance from required 150 ft. front yard (west side) setback to 35 ft. for construction of proposed Turner Athletic Center Building addition and variance from required 100 ft. left side (south side) yard setback to 10 ft. for future indoor facility addition for Saint James School on property owned by the Appellant and located at 17641 College Road, Hagerstown, zoned Agricultural (Rural) - **GRANTED**

Pursuant to the Maryland Open Meetings Law, notice is hereby given that the deliberations of the Board of Zoning Appeals are open to the public. Furthermore, the Board, at its discretion, may render a decision as to some or all of the cases at the hearing described above or at a subsequent hearing, the date and time of which will be announced prior to the conclusion of the public hearing. Individuals requiring special accommodations are requested to contact Kathy Kroboth at 240-313-2469 Voice, 240-313-2130 Voice/TDD to make arrangements no later than April 8, 2019. 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.

Paul Fulk, Chairman
Board of Zoning Appeals

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

TRUSTEES OF SAINT JAMES SCHOOL

Appeal No. AP2019-003

Appellant

OPINION

This appeal is for a variance to reduce the front yard setback on the west side from 150 feet to 35 feet and a variance to reduce the side yard setback on the south side from 100 feet to 10 feet at the subject property. The subject property is located at 17641 College Road, Hagerstown, Maryland; is owned by the Trustees of Saint James School (hereinafter "Appellant"); and is zoned Agricultural, Rural. The Board held a public hearing on the matter on April 17, 2019.

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 owns the subject property located at 17641 College Road, Hagerstown, Maryland 21740. The property is zoned Agricultural, Rural.
2. Appellant also owns the adjoining property to the south, identified as Parcel 184 on Tax Map 62, being part of the lands that comprise the campus of the Saint James School.
3. Appellant proposes to construct a 34, 156 square foot addition to the

existing Alumni Hall Field House for athletic and other special events. The addition will house the new basketball arena with spectator seating, locker rooms, offices, and meeting space for athletes. The proposed name is the Turner Athletic Center.

4. The proposed Turner Athletic Center will connect to Alumni Hall via a breezeway, allowing for one large indoor complex of athletic and recreation facilities.

5. Appellant also proposes to construct an indoor lacrosse facility which will be located between and to the south of the current Alumni Hall and the proposed Turner Athletic Center addition. This project is slated for future construction and a timeframe which has yet to be determined.

6. The proposed Turner Athletic Center will be used primarily for basketball activities; however, Alumni Hall will continue to host athletic and recreational events.

7. Parcel 184 on Tax Map 62, which is the property adjoining the subject property immediately to the south, is currently used as practice fields for Appellant's soccer teams.

Rationale

This Board has authority to grant a variance upon a showing of practical difficulty or undue hardship. §§ 25.2(c) and 25.56. * "Practical Difficulty" may be found by the Board when: (1) strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome; and (2) denying the variance would do substantial injustice to the applicant and a lesser

* "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).

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). In the instant case, Appellant seeks relief from the setback lines imposed on the subject property in order to construct an addition to their existing indoor athletic facilities.

“‘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).) In this case, the property is shaped in such a way that the area for expansion and the location of College Road cause the setback lines to skew, limiting the space for reasonable and logical expansion. These setbacks are also imposed despite the fact that Appellant owns the adjoining property and create a practical difficulty unique to the subject property, and causing the need for relief from the setback requirements.

The Applicant has demonstrated a practical difficulty if variance relief is not granted. The school has increased its footprint through construction and property acquisition over many years. However, in doing so it maintained many of the original property lines and thus, setback requirements imposed by the Ordinance. It is both reasonable and necessary that we would expect some expansion of the school with additions, renovations and new construction. If they were to comply with the current setbacks, it would affect the size of the new buildings which would frustrate their very purpose. One building is designated as the new basketball arena, with standard size

required. The other building is designated in the future for indoor lacrosse which would also require compliance with standard field dimensions. Although there will be some impact on one residential neighbor, Appellant's proposal primarily affects its adjoining properties. Practically, there would be extreme difficulty and perhaps hardship, if Appellant were restricted within the current setback requirements. The Board concludes that the variance relief is the result of practical difficulty, is the minimum necessary, and secures public safety and welfare and upholds the spirit of the Ordinance.

For all the reasons set forth above, the request for a variance to reduce the front yard setback on the west side from 150 feet to 35 feet is GRANTED by a vote of 5-0. The request for a variance to reduce the side yard setback on the south side from 100 feet to 10 feet is GRANTED by a vote of 4-1. Both variances are granted subject to the condition that the use be consistent with the testimony and evidence presented to the Board.

BOARD OF APPEALS

By: Paul Fulk, Chair

Date Issued: May 14, 2019