

Tax Map/Block/Parcel
No. 14-16-414

Building Permit/Zoning
Certificate No. 91-0312

Case 3533

**OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND**

APPLICANTS: William A. Chenoweth and Marlene G. Chenoweth
4127 Hanover Pike
Manchester, Maryland 21102

ATTORNEY: Charles O. Fisher, Esquire
179 East Main Street
Westminster, Maryland 21157

REQUEST: A variance to allow additional sign area of
about 185 square feet in excess of the maximum
allowable sign area of 500 square feet

LOCATION: 4127 Hanover Pike (Md. Rt. 30) in Election
District 6

BASES: Article 14, Division II, Section 14.23(c);
Article 15, Section 15.5; Ordinance 1E

HEARING HELD: April 24, 1991

On April 24, 1991, the Board of Zoning Appeals heard testimony and received evidence concerning the variance request to allow additional sign area of about 185 square feet in excess of the maximum allowable sign area of 500 square feet on the premises of 4127 Hanover Pike (Md. Rt. 30).

The Board visited the site on April 23, 1991, prior to the public hearing.

The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. Based on the record, the Board must deny the request.

The pertinent findings determining the Board's decision include the following facts:

FINDINGS OF FACT

The lot, which has an area of slightly more than one acre, is located on the northerly corner of the intersection of Hanover Pike (Md. Rt. 30) and Tracey's Mill Road. Hanover Pike extends in a northwesterly-southeasterly direction and Tracey's Mill Road intersects the highway on the northeasterly side only, forming a T intersection. As depicted on the plot plan submitted with the application, the building is located 58 feet from the frontage, or right-of-way of Hanover Pike. (Applicants' Exhibit 2.)

The applicants purchased the property in 1984. The signs existing at the time of the purchase have been maintained and are currently displayed. For purposes of clarity, the respected signs are listed as 1-5 on Applicants' Exhibit 3. Photographs of the respective signs are identified as Applicants' Exhibit 3A-3F. The total area of the signs, less the existing fuel pricing signs which are to be removed, is 468.57 square feet.

The applicants now seek a variance to the maximum allowable sign area to allow erection of new signs in conjunction with entering into a franchise agreement with a fuel company. The existing fuel pricing signs are of less area than the proposed signs. The total square footage of the new double-faced signs is 216 square feet, which added to the existing 468.57 square feet, equals a total sign area of 684.57 square feet.

The applicants' position is that the business is strictly oriented to highway traffic and is dependent upon signs to attract customers. The Board agrees with the applicants conclusion.

An adjacent resident testified in opposition to the request, citing the distractive influences that the numerous signs, and their legibility have on drivers proceeding on Hanover Pike, potentially affecting vehicular traffic safety on the highway and at the intersection.

APPLICABLE LAW

Articles, Divisions and Sections cited below are of Ordinance 1E.

The corner lot is zoned "B-G" General Business District as depicted on zoning map 14B. The land use provisions governing the district are expressed in Article 11. Retail trades, businesses and services of a general commercial nature are allowed as principal permitted uses. [Section 11.1(a)]. In addition, Section 11.1(c) provides for uses first allowed in the "B-L" Local Business District, as well as other more restrictive districts. Effectively, the alcohol beverage package store and fuel station are principal permitted uses that are first allowed in the "B-L" Local Business District.

Article 14, Division II, adopted 6/28/84 governs signs. Section 14.2, Generally, states:

In order to properly integrate all regulating provisions affecting signs, as defined in Section 20.34, and to regulate such devices in an orderly and comprehensive manner, it is hereby provided that signs are subject to regulations as set forth herein. These provisions

shall apply equally to all signs located in Carroll County.

Section 14.22, Signs requiring Zoning Certificate. General Provisions, reads in relevant part:

(a) The following signs are permitted in accordance with zoning district regulations and require a zoning certificate:

(1) Signs, business.

Section 14.23, "Use on the Premises" Signs, paragraph (c) reads:

Business signs pertaining to "use on the premises," as enumerated in Section 14.22(a), are permitted as an accessory use in all districts, provided the following provisions are adhered to:

(c) The total area of all signs shall not exceed four (4) times each linear foot of the building wall most nearly parallel to or confronting the adjacent street. Only one building frontage shall be used in computing the sign area allowance; except on a corner lot, in which case an additional 25% of the sign area allowed may be authorized. In no case shall the area of any one sign exceed 200 square feet on any one side. Computations of signs shall include all sides (where applicable) including the entire face of the sign and any wall work incidental to its decoration and shall include the space between letter figures and designs or the space within letter figures and designs.

Article 20, Definitions; Section 20.34 Signs, paragraph (a), (Amended 7/20/76) reads:

A name, identification, description, display, logo, illustration or device (including wigwag, twirler, pinwheel, pennant, and other similar device) which is affixed, stationed, or represented directly or indirectly upon a building, structure or land and which directs attention to a product, place, activity, person, institution, or business.

(a) Sign, business. Shall mean a sign which directs attention to a business or profession or to a commodity,

service, or entertainment sold or offered upon the premises where the sign is located.

Article 20, Section 20.39 defines a variance as:

...a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the results of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship.

Article 15, Board of Appeals; Section 15.0, Generally, and 15.5, Variance (Amended 2/25/76) read respectively and in relevant part:

The regulations specified in this ordinance shall be subject to the following exceptions, modifications, and interpretations:

The Board may authorize, upon appeal, in accordance with Section 17.2, variances from...sign regulations.... The Board may grant such variance only in cases where the strict compliance with the terms of this ordinance would result in practical difficulty and unreasonable hardship, and only if in strict harmony with the spirit and intent of such regulations and only in a manner so as to grant relief without substantial injury to public health, safety and general welfare.

Article 17, Board of Appeals; Section 17.2 General Powers, paragraph (c) states:

The Board shall have the following powers:

(c) To authorize, upon appeal in special cases, such variance from the terms of the ordinance as will not be contrary to the public interest, where owing to special conditions, the enforcement of the provisions of this ordinance will result in unwarranted hardship and injustice and which will most nearly accomplish the purpose and intent of the regulations of the Zoning Ordinance.

REASONING

As the property is a corner lot, the zoning ordinance allows the larger frontage of the building to be used in determining the allowable sign area, and also provides for 25 percent of additional sign area. The regulations recognize that corner lots have particular signing problems, and provide for reasonable and adequate sign area for such properties.

The allowable sign area in this instance, 500 square feet, is substantial. There is no evidence of practical difficulty and unreasonable hardship in the use of the property resulting from the strict enforcement of the provisions of the zoning ordinance. Nor is there any evidence of conditions peculiar to the property that would warrant authorization of the variance. In reality, the request is merely a matter of convenience.

The decision of how to best utilize the allowable sign area in accordance with the provisions of the zoning ordinance rests with the applicants.

An issue, separate from the applicants' request for additional sign area, involves testimony that the signage on the inside of the windows and on the icehouse were not subject to the provisions of the zoning ordinance, and were not computed as sign area. This interpretation is incongruous with the Board's interpretation of the provisions of the zoning ordinance.

CONCLUSION

The requested variance is without merit, and is hereby denied.

May 16, 1991
Date

John Totura
John Totura Chairman

JDN/bmh/c3533dec
May 15, 1991