



THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

WAYNE K. CURRY COUNTY ADMINISTRATION BUILDING, LARGO, MARYLAND 20774
TELEPHONE (301) 952-3220

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-9-22 Landover Beverage Realty, LLC

Enclosed herewith is a copy of the Board Order setting forth the action taken by the Board of Appeals in your case on the following date: February 23, 2022

CERTIFICATE OF SERVICE

This is to certify that on October 19, 2022, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

A handwritten signature in black ink, appearing to read "Barbara J. Stone". Below the signature, the name "Barbara J. Stone" is printed in a standard font, followed by the title "Administrator".

cc: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting

BEFORE THE BOARD OF APPEALS FOR PRINCE GEORGE'S COUNTY, MARYLAND
Sitting as the Board of Zoning Appeals

Petitioner: Landover Beverage Realty, LLC

Appeal No.: V-9-22

Subject Property: Parcel E-6, Map 51, Grid F3, Ardwick Industrial Re-subdivision, being 3570 Pennsy
Drive, Landover, Prince George's County, Maryland

Counsel for Petitioner: Edward Gibbs, Esq., Gibb and Haller

Justin Korenblatt, Esq., Gibbs and Haller

Witnesses: Lewis Gantmann, Vice President, Landover Beverage Realty, LLC

Heard and Decided: February 23, 2022

Board Members Present and Voting: Bobbie S. Mack, Chairperson

Albert C. Scott, Vice Chairman

Anastasia T. Johnson, Member

RESOLUTION

This appeal is brought before the Board of Appeals, sitting as the Board of Zoning Appeals for the Maryland-Washington Regional District in Prince George's County, Maryland (the "Board"), requesting variances from the strict application of the provisions of Subtitle 27 of the Prince George's County Code (the "Zoning Ordinance").

In this appeal, a proceeding pursuant to Section 27-229 of the Zoning Ordinance, Petitioner requests that the Board approve variances from Section 27-469(b)(1) prescribes that at least ten percent (10%) of the net lot area shall be maintained as green area. Petitioner proposes to validate an existing condition (green area requirement). A variance of 4.03% green area requirement is requested.

Evidence Presented

The following testimony and record evidence were considered by the Board:

1. The property was subdivided in 2000, contains 9.9 Acres, is zoned I-1 (Light Industrial) and is improved with a 150, 000± square foot distribution warehouse and surface parking lot. Exhibits (Exhs.) 3 (B), 4, 7, 8, and 9 (A) thru (F).
2. The subject property is essentially an elongated rectangle but is irregular at certain points. Exhs. 3 (B), 4, 7, 8, and 9 (A) thru (F).¹
3. Petitioner would like to validate an existing or remaining green area which resulted from a condemnation proceeding by Washington Metropolitan Area Transit Authority (WMATA). As a consequence, a variance of 4.03% green area is required. Exhs. 3 (B), 4, 7, 8, and 9 (A) thru (F).
4. Attorney Justin Korenblatt explained that Petitioner is a wholly owned subsidiary of Beverage Distribution Center, Inc. and has operated a beverage bottling and distribution center on the subject property since 1998. Throughout Petitioner's ownership, the property has complied with all the Zoning Ordinance requirements, including having sufficient green area in the I-1 (Light Industrial) Zone.
5. Petitioner stated that prior to the taking, the subject property had 14.98% green area. Exh. 2, footnote 1.

¹ Petitioner mentioned the usual shape or curvature of the frontage along Pennsy Drive. Exh. 2, p. 4.

6. He further explained that in 2020, WMATA initiated a condemnation action against the subject property.² He stated that prior to the condemnation, the property consisted of 12.67 acres and the subject property comprised of approximately 2,7455 acres located in the area in the northwest corner of the property (the “Taking Area”). The Taking Area is now owned by WMATA. Petitioner states that the existing subject property now consists of 9.92 acres. Ext. 2.

7. The property now has approximately 6% green area. Exh. 2.

8. He explained that for the Petitioner to bring the property into conformance with the current green area requirement, it would either have to remove some of the warehouse space on-site or remove a substantial amount of surface parking. He opined that if that remain the case, there is a strong likelihood that the property would become non-conforming for failure to meet the minimum parking requirements.

9. He stated that the need for the requested variance is clearly not self-inflicted, and the granting of the variance will not impair the spirit of the Zoning Ordinance or recommendations of the Master Plan. Petitioner is neither proposing any new development nor seeking to gain anything by obtaining a variance, but merely seeking to legitimize the existing use, and to ultimately avoid becoming non-confirming. Exhs. 2, 3 (B) and 5 (A) thru (H).

10. Lewis Gantmann testified that WMATA has been a long-standing neighbor and land was also taken on the other side/rear of the property in order for WMATA to have the ability to go between the two parcels. Exhs. 2, 3 (B) and 5 (A) thru (H).

Applicable Code Section and Authority

Section 27-230 of the Zoning Ordinance authorizes the Board to grant variances when, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, provided such relief can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan.

Findings of the Board

After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variance complies with the applicable standards set forth in Section 27-230, more specifically:

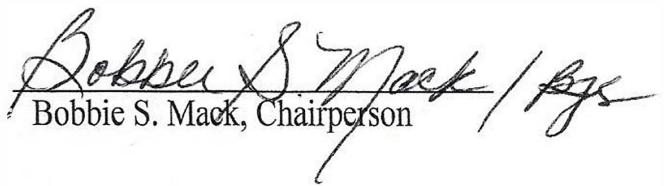
Due to WMATA’s condemnation action reducing the green area on the subject property, the taking of green area causing the subject property to fall out of compliance with the current requirement of Section 27-469(b)(1) of the Zoning Ordinance and the character of the neighborhood, granting the relief requested would not substantially impair the intent, purpose and integrity of the General Plan or Master Plan, and denying the request would result in a peculiar and unusual practical difficulty upon the owners of the property.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 4.03% green area requirement on the property located at 3570 Pennsy Drive, Landover, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 3 B.

² See, WMATA v. 119, 593 sq. ft. (2.7455 acres) of Land, Case No. 20-cv-03468 TDC. Exh. 2.

BOARD OF ZONING APPEALS

By:


Bobbie S. Mack, Chairperson

NOTICE

Within thirty (30) days from the date of this decision, any person, firm, corporation, or governmental agency who was a party to the Board's proceedings and is aggrieved by its decision may file an appeal to the Circuit Court of Prince George's County.

Further, Section 27-233(a) of the Prince George's County Code states:

A decision of the Board, permitting the erection of a building or structure, shall not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision and the permit.

BOARD OF APPEALS

APPROVED FEB 23 2022

AFTER
EXHIBIT 2

ADMINISTRATOR

~~ADMINISTRATOR~~

PROPERTY AREA
TOTAL = 431.615 sq.ft.

BUILDING EXPANSION
25' x 318' = 7,950 SF OR 5.0%

JOB NUMBER:	04588
DRAWN BY:	KJW
DESIGNED BY:	TDO
CHECKED BY:	TED

DST&haler ASSOC., LLC
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ARCHITECTS AND LAND PLANNERS
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REVISIONS

CONDEMNATION EXHIBIT 2 -
AFTER WMATA TAKING
3510 PENNOY, DRIVE
LANDOVER, MD

	<p style="text-align: center;">STATE OF MARYLAND DEPARTMENT OF AGRICULTURE AGRICULTURAL MUSEUM</p>		
	<p style="text-align: center;">AGRICULTURAL MUSEUM BETHESDA, MARYLAND 20814 844 DIFR ASSOCIATES, INC. Supporters / Sponsors / Patrons</p>		
6-20-20	REVISED TO AND CORRECTED MUSEUM A: 2020.06.20	BY	J. M. DIFR
DATE	DESCRIPTION	BY	J. M. DIFR
REVISED			

SCALE: 1' = 50'
DATE: JANUARY 2020
SHEET: 2 OF 2