

ALLEGANY COUNTY BOARD OF ZONING APPEALS

**IN RE: APPLICATION OF
FORE SISTERS GOLF INC.
FOR A VARIANCE**

* **Case No.: 921**
* **Hearing Date: 10/06/10**

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FINDINGS

This case came before the Allegany County Board of Zoning Appeals (the "Board") upon Fore Sisters Golf Inc's request for variance of the setback requirements for a commercial sign pursuant to Section 141-101.A. and Section 141-101.D. of the Allegany County Zoning Code.

A field inspection of the subject property was conducted by the members of the Board on September 30, 2010. The purpose of the field inspection was to familiarize the Board members with the site layout in order for them to develop an understanding as to where the proposed use would be located and as to whether the proposed use would be constructed in compliance with the terms of the Zoning Ordinance.

At the hearing on October 6, 2010, the Board considered the attached list of exhibits which consisted of information gathered by the Division Chief and information provided by other agencies and individuals.

The proposed use will be located on the northwest side of McMullen Highway (US Rt. 220);at the corner of Conda Way, Rawlings, Maryland. The proposed use is a commercial sign approximately 4 ft. by 8 ft. in size erected on the north side of Conda Way.

The Board considered testimony presented at the hearing in order to ascertain whether the proposed use would meet the standards and criteria of the Zoning Ordinance. The Board's findings are as follows:

1. The Board of Appeals is specifically authorized to grant a variance in this type of case by Section 141-129.D. (2) of the Allegany County Zoning Code.
2. That the sign in question is a commercial sign and is subject to a 12 ½ foot setback per Section 141-125.B. of the Allegany County Zoning Code.
3. That the sign in question does not meet the minimum setback requirements and as a

result is subject to Section 141-75 of the Allegany County Zoning Code regarding modifications of the zoning regulations.

4. That the Applicant is found to be in possession of the lot of record by virtue of a purported lease from the Estate of Conda O. Smith unto Fore Sisters Golf, Inc.

5. That this corner lot is located on a long, curving section of US Rt. 220 south and, due to the lot location, placement of the sign in the required setback would defeat the purpose of the commercial sign in that drivers headed south on US Rt. 220 would drive past the sign before they had an opportunity to read it.

6. That requiring Applicant to adhere to setback requirements in this case would prevent the use of the lot for the purpose which applicant had obtained it. Requiring a directional sign to be placed where it can not be read by those traveling would serve little purpose and would be unnecessarily burdensome to the applicant.

7. That the necessity for a variance in this matter is not a result of any action taken by the applicant in this matter but merely the physical layout of the lot itself in relation to US Rt. 220.

8. That this matter has never been before the Board of Zoning Appeals prior to this application.

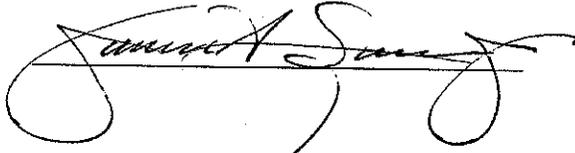
9. That the proposed use is still in line with the overall intent of the zoning ordinance.

CONCLUSIONS

Based upon the findings set forth above, the Board voted at the conclusion of the hearing of October 6, 2010, 3-0 in favor of granting the Applicant's request for a variance as to the setback requirements for a commercial sign pursuant to Section 141-101.A. and Section 141-101.D. of the Allegany County Zoning Code. As a condition to the granting of the Board's approval, the Applicant will be required to provide to the Board a copy of the lease between the Applicant and the Estate of Conda O. Smith no later than December 6, 2010. The applicant must also comply with the terms and criteria of the Zoning Ordinance at all times and must also obtain the approval of all State, County, and municipal agencies whose approvals are required for the conduct of the proposed use.

ATTEST

BOARD OF ZONING APPEALS



By: 
Julia Williams, Chairperson

Copies to: See Attached List
Attachment: Exhibits List

BOARD OF ZONING APPEALS

FOR ALLEGANY COUNTY, MARYLAND

CASE# 921

FORE SISTERS GOLF, INC.

OCTOBER 6, 2010

EXHIBITS LIST

(post hearing)

- A. An Allegany County *Land Use Permit Summary* covering a *Land Use Permit Application, Permit Review and Approval Checklist*, and Site Plan.
- B. Completed *Petition for a Variance*, with supplement.
- C. Photocopy of an Allegany County Tax Map for property identification.
- D. An *Adjoining Property Owners List* completed and signed by the Applicant.
- E. A *Notification of the Hearing*, with attached distribution list, dispatched to adjoining and adjacent property owners by the Secretary of the Board.
- F. *Notification of Hearing* dispatched to the Applicant by Secretary of the Board
- G. *Inter Office Memo*, prepared by the LDS office, that was distributed to the necessary review agents notifying them of this Case, date, time and requesting comment.
- H. *Public Notification*, dispatched to the Cumberland Times/News, for the purposes of notifying the general public of the hearing date, time and location.
- I. *Certification of Public Notice*, received from the Cumberland Times/News, certifying that the *Public Notification* was published Saturday, September 11th, 2010.
- J. Photograph of subject sign, dated 5/5/2010.
- K. Photograph of area from Google Earth, dated 2009. (historical reference, portrays "a sign")
- L. Orthophotography of subject area.
- M. Email, dated April 14, 2010, from Steve Bucy (SHA) to Squires, relaying questions and observations about the subject sign.
- N. Correspondence, dated April 19, 2010, Dorsey to Paye, relaying zoning certification review comments.
- O. Correspondence, dated April 20, 2010, Paye to Dorsey, relaying comments justifying the issuance of a zoning certification.
- P. Correspondence, dated April 22, 2010, Dorsey to Paye, requesting further information.
- Q. *Application Summary* #1004009, returned from Steve Bucy (SHA), noting "...cannot approve permit as indicted...", stamped received by LDS 5/11/2010.
- R. Copy of an MDOT SHA *Application for Sign Tag Permit*, dated August 10, 2010(re-submittal).
- S. Correspondence, dated July 26, 2010, Small(SHA) to Squires, relaying SHA's position on the legality of the sign, establishing a deadline for mitigation of the infraction.
- T. Correspondence, dated August 12, 2010, Paye to Squires, relaying comments justifying the issuance of a zoning certification.
- U. Correspondence, dated August 13, 2010, Paye to Small(SHA), covering an *Application for Sign Tag Permit* (re-submittal dated August 11, 2010), with site plan.
- V. Correspondence, dated August 16, 2010, Small(SHA) to Paye, relaying SHA's position on the legality of the sign, status of the *Tag* application, etc..
- W. Email, dated August 31, 2010, from Squires to Paye, relaying statements and observations about the subject sign.
- X. Correspondence, dated August 31, 2010, Paye to Small(SHA), requesting an extension for the SHA sign tag permitting process.
- Y. Email, dated September 24, 2010, from Goldsworthy (County Roads Divs.) to Squires, relaying comment of ". . . no objection..." to authorization of the subject sign.
- Z. Correspondence, dated September 27, 2010, Small(SHA) to Squires, relaying SHA's position on the subject sign, further stating that SHA would be opposed to the granting of a variance. Exhibit includes support documentation (i.e. correspondence, application(s), site plans, etc.)
- AA. Memorandum dated October 6, 2010, from James A. Squires Jr., Division Chief, to the Allegany County Board of Zoning Appeals, regarding site development plan requirements.
- BB. Memorandum of Applicant
- CC. Site plan, with attached table
- DD. Photocopy of Transportation Article, Annotated Code of Maryland, regarding signs
- EE. Plan of Survey for subject area, dated 9/9/2010, sealed by Lowell Chapman
- FF. Photograph of Rawlings Athletic Club sign (far)
- GG. Photograph of Rawlings Athletic Club sign (close)