

IN THE MATTER OF : BEFORE THE  
JEFFREY GREENBERG : HOWARD COUNTY  
Petitioner : BOARD OF APPEALS  
 : HEARING EXAMINER  
 : BA Case No. 08-006S

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**DECISION AND ORDER**

On February 4, 2009, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of Jeffrey Greenberg for a variance to erect a 4'6" high by 8' wide, 36-square foot freestanding identification sign 15 feet from the Montpelier Road right-of-way ("ROW") rather than the 36-foot setback required in relation to the total sign area and the 9-foot setback required in relation to the sign height, on land belonging to Montpelier Research Park, in a PEC (Planned Employment Center) Zoning District, filed pursuant to Section 3.513, Title 3, of the Howard County Code (the "Sign Code").

The Petitioner certified that notice of the hearing was advertised and that the subject property was posted as required by the Howard County Code. I viewed the subject property as required by the Hearing Examiner Rules of Procedure.

Raissa Kirk represented the Petitioner. Jeffrey Greenberg testified in favor of the petition. No one appeared in opposition to the petition.

**FINDINGS OF FACT**

Based upon the preponderance of evidence presented at the hearing, I find the following facts:

1. The generally rectangular subject property is located in the 5<sup>th</sup> Election District and is referenced on Tax Map 41 as Parcel 124/Par A (the "Property"). The Property has a street address of 7651 Montpelier Road and is located within the Montpelier Research Park, which is part of the Johns Hopkins University Applied Physics Laboratory ("JHUAPL"). The 12-acre Property is located on the west side of Montpelier Road, about 800 feet north of Johns Hopkins Road.

2. Vicinal Properties. All vicinal properties are zoned PEC. The site to the Property's north is improved with a one-story brick building. To the west, the site is improved with a six-story, precast construction, commercial office building. To the south, the site is improved by a one-story brick commercial building. To the east is a three-story, precast construction commercial office building.

3. The Petitioner is requesting a variance to erect a 4'6" high by 8' wide, 36-square foot freestanding identification sign 15 feet from the Montpelier Road right-of-way ("ROW") rather than the 36-foot setback required in relation to the total sign area and the 9-foot setback required in relation to the sign height.

4. The upper area of the proposed freestanding non-illuminated, semi-gloss silver monument sign would contain the words "The Johns Hopkins University," with the words "Applied Physics Laboratory" below in larger letters. Below a broad horizontal line, the mid-section would have changeable copy. Below a broader horizontal line are the proposed words "Managed by Lincoln Property Company." The sign would be sited on the northerly side of the main ingress/egress/drive aisle, generally perpendicular to Montpelier Road and about 15 feet from the ROW.

5. The approach along Montpelier Road toward the main ingress/egress has a broad curve. There is also a marked difference in grade among the vicinal properties. The curvature, as well as trees, landscaping, and street signs along the east property line, limits motorists' view of a conforming sign.

### **CONCLUSIONS OF LAW**

Section 3.513(b) of the Sign Code permits the Board of Appeals to grant variances from the provisions of the Sign Code where certain determinations are made. Based upon the foregoing Findings of Facts, I conclude as follows:

**1. That there are unique physical conditions or exceptional topographical conditions peculiar to the property on which the proposed sign is to be located, including the location of existing buildings and other structures, irregularity, narrowness or shallowness of the lot, irregularity of the road right-of-way, location on a highway that has a dependency on nonlocal use, which conditions lead to practical difficulty and unnecessary hardship in complying strictly with the provisions of this subtitle.**

Montpelier Road's curvature is a unique physical condition leading to practical difficulty and unnecessary hardship in complying strictly with the setback requirements of the Sign Code, in accordance with Section 3.513(b)(1).

**2. Or, that there are obstructions, such as excessive grade, building interference, structures or landscaping on abutting property or properties which seriously interfere with the visibility of a proposed sign, resulting in practical difficulties and unnecessary hardship in complying strictly with the provisions of this subtitle.**

The presence of signs and trees along this section of Montpelier Road, and the difference in

grade among the vicinal properties, impede motorists' view of a complying sign, causing practical difficulties and unnecessary hardship in complying with this subtitle. The Petitioner did not create these conditions, in accordance with Section 3.513(b)(2).

**3. Or, that there are historical, architectural, or aesthetic characteristics which shall be considered.**

There are no historical, architectural, or aesthetic characteristics of the Property to be considered under section 3.513(b)(3).

**4. That the variance, if granted, will not adversely affect the appropriate use or development of adjacent properties, nor result in a dangerous traffic condition.**

The proposed sign will be generally separated from vicinal commercial properties and will not result in a dangerous traffic condition.

**5. That the requested variance is the minimum necessary to afford relief, and can be granted without substantial impairment of the intent, purpose and integrity of this subtitle.**

The proposed sign is a reasonable use. I therefore conclude the sign is the minimum necessary to afford relief and can be granted with substantial impairment of the intent, purpose and integrity of the Sign Code, in accordance with Section 3.513(b)(5).

**6. That such practical difficulties or hardships have not been created by the applicant; provided, however, that where required findings pursuant to section 3.513 are made, the purchase or lease of the property on which a proposed sign is to be located subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.**

The practical difficulties are a result of unique Property conditions, vicinal obstructions, and highway conditions. The Petitioner did not create these conditions, in accordance with Section

3.513(b)(6).

**ORDER**

Based upon the foregoing, it is this 18<sup>th</sup> day of February 2009, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the petition of Jeffrey Greenberg for a variance to erect a 4'6" high by 8' wide, 36-square foot freestanding identification sign 15 feet from the Montpelier Road right-of-way rather than the 36-foot setback required in relation to the total sign area and the 9-foot setback required in relation to the sign height in a PEC (Planned Employment Center) Zoning District, is hereby **GRANTED;**

**Provided, however, that:**

1. The variance shall apply only to the uses and structures as described in the petition and plan submitted, and not to any other activities, uses, structures, or additions on the Property.

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**



Michele L. LeFaivre

Date Mailed: 2/24/09

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.