



Joseph Goldscher-Convenience Services Inc., T/A Joe's Place

**FINDINGS OF FACT**

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

1. Property Identification. Joe's Place is located in the Waterview Building, which has an address of 7130 Minstrel Way. However, the proposed sign is to be located on 7100 Minstrel Way, which is the site of Brighton Gardens of Columbia (the Sign Property). The Sign Property is located in the 16<sup>th</sup> Election District and referenced as Tax Map 42/410, Block 3, Parcel A-21.

2. Property Descriptions. Minstrel Way on the north side of Snowden River Parkway, takes an almost ninety-degree turn to the south just beyond an Exxon fuel facility located at the northwest intersection of Minstrel Way and Snowden River Parkway. On the north side of this curvature is Brighton Gardens, a senior living facility. Beyond Brighton Gardens, Minstrel Way provides access to two large office buildings on either side of the road. Minstrel Way then ends in a northerly driveway that provides access to the Waterview Building, where Joe's Place is located. There is also a significant grade change between the Snowden River Parkway roadbed and the long section of Minstrel Way ending at the Waterview Building.

3. Variance Request. The Petitioner is requesting a variance to locate a 3'0"(H) x 2'0" (W), 6-square foot, freestanding identification sign 4 feet from the Minstrel Way right of way rather than the 6-foot setback required for total sign area and height setbacks. The sign would be placed at this location Monday-Friday, from 11:00 a.m. to 2:30 p.m. and contain the words "Joe's Place" and a directional cue.

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4. Petitioner testified to the curvature of Minstrel Way, which prevents motorists from seeing Joe's Place along Minstrel Way. The petitioner contains a letter from the Brighton Gardens of Columbia office coordinator authorizing the posting of the sign on the Sign Property.

5. The Hearing Examiner stated at the proceeding that she has driven along Minstrel Way up to Brighton Gardens frequently in the last several months in relation other proceedings but was unaware of the existence of Joe's Place because she had not been able to see it.

**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.**

The Property is located at the end of Minstrel Way. The road's curvature leads 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 grade change between Snowden River Parkway and Minstrel Way seriously interfere

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with the visibility of a conforming sign from these roads, 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.**

There is no evidence of adverse affects from the proposed sign on the use of adjacent properties, nor any evidence of resultant dangerous traffic conditions. Indeed, the temporary sign will assist motorists looking for Joe's Place. The Hearing Examiner concludes the proposed site of the sign is unlikely to produces adverse effects on the use or development of adjacent properties.

**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 and size and will be located at the proposed location for a few hours, Monday-Friday (11:00 a.m. to 2:30 p.m.). The Hearing Examiner therefore concludes the sign is the minimum necessary to afford relief and can be granted without 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;**

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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 road conditions. The Petitioner did not create these conditions, in accordance with Section 3.513(b)(6).

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ORDER

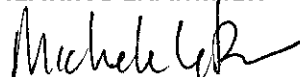
Based upon the foregoing, it is this 17<sup>th</sup> day of September 2013 by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the petition of Joseph Goldscher-Convenience Services Inc., T/A Joe's Place (Petitioner) for a variance to locate an off-site 3'(H) x 2 (W), 6.0-square foot, freestanding directional sign 4 feet from the Minstrel Way right-of-way (ROW) than the 6-foot setback required in relation to the total sign area and setback requirements, in an NT (New Town) 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.
2. The sign shall not be erected, altered, or relocated without a sign permit issued by the Department of Inspections, Licenses, and Permits, in accordance with Section 3.509 of the Howard County Sign Code.

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**



\_\_\_\_\_  
Michele L. LeFaivre

Date Mailed: \_\_\_\_\_

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.