

HOLDOVER

APPLICATION NUMBER

5544/4839

A REQUEST FOR

**FRONT YARD SETBACK VARIANCE TO ALLOW THE
CONSTRUCTION OF A GASOLINE CANOPY 22.8' FROM
A FRONT PROPERTY LINE IN A B-2, NEIGHBORHOOD
BUSINESS DISTRICT; THE ZONING ORDINANCE
REQUIRES A MINIMUM 25' FRONT YARD SETBACK IN
A B-2, NEIGHBORHOOD BUSINESS DISTRICT**

LOCATED AT

3050 COTTAGE HILL ROAD

(Northeast corner of Cottage Hill Road and Bel Air Boulevard)

APPLICANT / OWNER

B.S. MANAGEMENT

BOARD OF ZONING ADJUSTMENT

AUGUST 2009

The applicant is requesting a Front Yard Setback Variance to allow the construction of a gasoline canopy 22.8' from a front property line in a B-2, Neighborhood Business District; the Zoning Ordinance requires a minimum 25' front yard setback in a B-2, Neighborhood Business District.

The site was recently developed with a gas station. However, upon inspection, it was determined that the canopy had been constructed too close to the front property line; hence this application. The applicant states that due to "geometry" of the site, the canopy is located in the only feasible location that would provide adequate protection during poor weather conditions and would provide adequate driveway clearances at the ends of the canopy. The applicant further states that this minor encroachment does not create an unsightly condition nor does it have any impact on the site conditions for traffic entering and exiting the site.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Furthermore, the applicant must present sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship. The Ordinance also states that a variance should not be approved unless the spirit and intent of the Ordinance is observed and substantial justice done to the applicant and the surrounding neighborhood.

Variations are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

With regard to the applicant's request, the encroachment of the canopy, while minor, is prohibited by the Zoning Ordinance. It should be noted that the plans submitted at the time of permitting were in full compliance; the site simply was not developed accordingly. With that said, any hardship affecting the applicant should be considered self-imposed.

The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship.

Revised for the August 3rd meeting:

This application was held over from the Board's scheduled July meeting due to a lack of quorum.

RECOMMENDATION 5544/4839

Date: August 3, 2009

Based on the preceding, this application is recommended for denial.