



**ZONING BORAD OF APPEALS
AGENDA
June 29, 2021**

Zoning Board of Appeals

6:00 PM

1. CALL TO ORDER

**a. Zoning Board of Appeals Case No. 5939 (2800
Fallston, LLC and Dolgencorp, LLC)**

2. FINAL ARGUMENT

3. ADJOURNMENT

Council Chambers - 212 South Bond Street, Bel Air, MD 21014

www.HarfordCountyCouncil.com

To request disability-related accommodations to participate in this meeting, please contact Jeannette Castronova at 410-638-3343 as soon as possible.

STANDARD APPLICATION
Harford County
Board of Appeals
 Bel Air, Maryland 21014



Case No. 5939
 Date Filed 1/4/21
 Hearing Date _____
 Receipt _____
 Fee 950.00
 Type Var.

Information to be Submitted with Application

1. A plot plan drawn to scale indicating all pertinent data.
2. A list of all adjoining property owners with mailing addresses.
3. Names and addresses of all persons having legal or equitable interest in the property.
4. All required supporting documentation or additional studies as may be required; including traffic and environmental studies, etc.

NOTE:

All applicants **MUST** schedule a pre-application meeting with the Department of Planning and Zoning **prior** to filing any application to the Board of Appeals.

To schedule please call 410-638-3119.

Shaded areas for Office Use Only

Nature of Request and Section(s) of Code

CASE 5939 MAP 47 TYPE Variance
ELECTION DISTRICT 04 TAX ID 04-018834
LOCATION 2800 Fallston Road, Fallston, MD 21047
BY 2800 Fallston, LLC, 4215 Long Green Road,
Glen Arm, MD 21057
Appealed because a variance pursuant to Section 267-331(5)(a) of the Harford County Code to allow a Freestanding Sign to exceed the 6' height limitation (8' proposed) and 18 square feet (32 square feet proposed), and a variance to allow a Freestanding Sign to be within 20' of the public right-of-way and a variance pursuant to Section 267-331(5)(b) to allow a wall sign consisting of 149 square feet (no larger than 10 square feet required) in the VB District requires approval by the Board.

Owner (please print or type)

Name 2800 Fallston, LLC Phone Number Call attorney

Address 4215 Long Green Road, Glen Arm, Maryland 21057
 Street Number Street City State Zip Code

Co-Applicant Dolgencorp, LLC Phone Number Call attorney

Address 421 West Main Street, Frankfurt, Kentucky 40601
 Street Number Street City State Zip Code

Contract Purchaser _____ Phone Number _____

Address _____
 Street Number Street City State Zip Code

Attorney/Representative Bradley R. Stover
Shaffer, McLaughlin & Stover, LLC Phone Number 410-420-7992

Address 836 South Main Street, Suite 102, Bel Air, Maryland 21014
 Street Number Street City State Zip Code

Land Description

Address and Location of Property 2800 Fallston Road, Fallston, Maryland 21047. Located at intersection of Maryland Routes 152 and 165.

Subdivision _____ Lot Number _____
Acreage/Lot Size 1.43 Election District 4th Zoning VB Tax ID # 04-018834
Tax Map No. 47 Grid No. 1B Parcel 332 Water/Sewer: Private ☒ Public _____

List ALL structures on property and current use: Macadam parking lot. No structures other than sheds located on the property for sale. Retail sales of sheds current use on property.

Estimated time required to present case: 60 minutes

If this Appeal is in reference to a Building Permit, state number n/a

Would approval of this petition violate the covenants and restrictions for your property? Yes _____ No ☒

Is this property located within the County's Chesapeake Bay Critical Area? Yes _____ No ☒

If so, what is the Critical Area Land Use designations: n/a

Is this request the result of a zoning enforcement investigation? Yes _____ No ☒

Is this request within one (1) mile of any incorporated town limits? Yes _____ No ☒

Request

Variance from the sign requirements in the VB Village Business District as set forth §267- 33(I)(5) of the Harford County Zoning Code.

Justification

See attached.

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

REQUEST AND JUSTIFICATION FOR A VARIANCE
HARFORD COUNTY BOARD OF APPEALS STANDARD APPLICATION

Request

Variance from the sign requirements in the VB Village Business District as set forth §267-33(I)(5) of the Harford County Zoning Code.

Justification – Code Application

The Subject Property is located at 2800 Fallston Road, Fallston, Maryland 21047, is designated on Harford County Tax Map 47 as parcel 332, and consists of 1.43 acres of land (the "Subject Property"). The Subject Property is zoned VB Village Business as defined in the Harford County Zoning Code. The Subject Property is owned by Applicant 2800 Fallston, LLC, and is under a ground lease with Co-Applicant Dolgencorp LLC. The Subject Property is currently being used for the sale of sheds. The Applicants desire to develop and operate a Dollar General retail store on the Subject Property. The use is permitted in the VB District and, except as set forth herein, the use meets all Code requirements as shown on the attached site plans.

The Applicants seek relief from the provisions of 267- 33(I)(5) of the Harford County Zoning Code, which imposes restrictions on signage in the VB District. As shown on the attached site plans, the Applicants seek to construct a freestanding sign on the Subject Property within 20 feet of the public right of way of Maryland Route 152, 8 feet in height, with faces consisting of 32 square feet sign. Applicants further seek to construct a sign on the façade of the Dollar General building consisting of 149 square feet. Both the freestanding sign and façade sign require relief from the Code, specifically the following provisions:

§267-33. Signs.

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(I) Sign standards by zoning district and development type.

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(5) VB Village Business District. In addition to the requirements set forth in this section, signs in the VB district must comply with the following standards:

(a) One freestanding sign per parcel, which shall have a maximum of 18 square feet in area, shall be no more than 6 feet in height, shall be placed perpendicular to the road and shall be no less than 20 feet from the right-of-way.

(b) A wall sign for each use, which shall be attached to the front of a building, shall be adjacent to the front entryway and shall be no larger than 10 square feet in area.

In order to obtain a variance from the provisions of the Code, the Applicants must prove: (1) by reason of the uniqueness of the property or topographical conditions, the literal enforcement of the Code would result in practical difficulty or unreasonable hardship; and (2) the variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest. Applicants submit that by reason of uniqueness of the Subject Property, literal enforcement of §267-33(I)(5) of the Code would, in fact result in practical difficulty or unreasonable hardship, and that the granting of a variance with request to the

freestanding and façade signs would not be substantially detrimental to adjacent properties, impair the purpose of the Code or harm the public interest.

The Subject Property is located at the intersection of Maryland Routes 165 and 152. The Subject Property was previously improved, but currently is unimproved and as noted above, used for the sale of sheds by an Amish manufacturer. The other three corners of Maryland Routes 152 and 165 are heavily developed with commercial and retail uses thereon. The properties on the north side of Maryland Route 152 are zoned B-1 Business under the Code. The other corner property on the south side of Route 152 is zoned VB and is used as a bank. Each of the four corners contains signage, both on the facades of the buildings and freestanding, that exceed the VB sign provisions noted above.

The Subject Property is unique, insofar as the existing right-of-way given to the Maryland State Highway Administration off of Maryland Route 152 extends approximately 115 feet from the finished macadam southward towards the subject property. This renders 115 feet off of Maryland Route 152 as land that cannot be developed. This, in turn, will necessarily push the footprint of the proposed retail building and any signage thereon back off of Maryland Route 152 an exceptional distance. To wit, the proposed location of the retail building will be 187 feet from the macadam of Maryland Route 152. The extensive swath of right-of-way renders the Subject Property unique by reason of the property configuration and topographical conditions thereon.

Strictly imposing the Code provisions in the VB District with respect to signage would render the signs nearly invisible from the public right-of-way, given the size constraints thereon. It is for this reason that the Applicants seek the variance as set forth herein, namely the following:

1. That the freestanding sign located on the Subject Parcel consists of 32 square feet, which is in excess of the statutory restriction of 18 square feet. This would be for visibility purposes.
2. That the freestanding sign be 8 feet in height, which exceeds the statutory restriction of 6 feet in height. This would be for visibility purposes.
3. That the freestanding sign be located less than 20 feet from the right-of-way. As noted on the Site Plan, there is an existing macadam parking lot located on the Subject Property that the Applicants intend to use for their retail use thereon. Adhering to the 20 foot buffer from the right of way would require the Applicants to install the signage in the parking lot area.
4. That the wall sign on the proposed building be 149 square feet, which exceeds the statutory limitation of 10 square feet. This would be for visibility purposes.

Applicants submit that the granting of these variances will not be substantially detrimental to any adjacent properties. The proposed signage will be consistent with that which exists both on the facades of the buildings and freestanding signs at the other three corners of the commercial intersection of Maryland Routes 152 and 165. The granting of the variances will not impair the purposes of the Code, nor will the public interest be harmed. Indeed, the Applicants submit that making the signs visible will further the public interest insofar as individuals travelling on

Maryland Route 152 will not have to squint or strain to see signage that would be nearly invisible under the current regulations. Attached to this application is a rendering showing how the façade sign would appear from Maryland Route 152 applying the statute. Applicants further submit that they are seeking relief only to the extent that it is necessary.

Justification – Limitations, Guidelines and Standards

The proposed uses will fall within the applicable limitations guidelines and standards to be adhered to by the Board of Appeals as set forth in §267-9(i):

1. The Subject Property and uses thereon should not have an impact on the number of persons living or working in the immediate area, which consists of other commercial uses. The proposed use itself is permitted, and the variance sought for signage will have no impact in this respect.

2. The Applicants have procured a traffic study to address any impact on traffic conditions. proposed use should not have any negative impact on traffic conditions. The proposed use itself is permitted, and the variance sought for signage will have no negative impact on traffic; indeed, making the signs more visible will have the effect of promoting traffic safety.

3. The proposed use should not affect the orderly growth of the neighborhood and community. The proposed use itself is permitted, and the variance sought for signage will have no impact in this respect.

4. There will be no effect as the result of any odors, dust, gas, smoke, fumes, vibration, glare, noise as a result of the proposed use. The proposed use itself is permitted, and the variance sought for signage will have no impact in this respect.

5. The proposed use shall not have any adverse impact on facilities, fire protection, sewage, water, trash and garbage collection or the like. The Subject Property shall be served by onsite private water and sewer. The Applicants will provide for trash and garbage collection. The proposed use itself is permitted, and the variance sought for signage will have no impact in this respect.

6. The proposed use is consistent with generally accepted engineering and planning principles and practices.

7. There will be no additional impact on structures in the vicinity, such as schools, houses of worship, theaters, or hospitals, none of which are in close proximity with the Subject Property.

8. The proposed use is consistent with the purposes of the Code, the Master Plan and related studies for land use and the like, insofar as the proposed use itself is permitted by the Code.

9. The proposed use shall not have any environmental impact on any nearby sensitive features. There are no applicable opportunities for recreation or open space.

10. The proposed uses shall not have any negative impacts on any cultural or historic landmarks, of which none are known on the Subject Property.

Zoning Code Requirements

Appeal from Administrative Decision/Interpretation Requirements (Article 267-7A)

- (6) Render a final written determination, within 45 calendar days of the written request, of whether a proposed use is permitted in a particular zoning district, or whether a proposed use is a legal nonconforming use upon written request of any person. The Director of Planning may determine a materially similar use exists, based on the North American Industrial Classification System (NAICS). The final written determination of the Director of Planning shall be subject to appeal to the Board by the applicant within 20 calendar days of the date of the decision.

Variance Requirements (Article 267-11)

- (A) Variances from the provisions or requirements of this Code may be granted if the Board finds that:
- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of the Code would result in practical difficulty or unreasonable hardship; and
 - (2) The variance will not be substantially detrimental to adjacent properties, or will not materially impair the purpose of this Code or the public interest.

(The Board may impose such conditions as it deems necessary in each particular case. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Code.)

Special Overlay District Requirements (Article 267-62)

(E) Natural Resources District

Variances. The Board may grant a variance to Subsection C or D upon a finding by the Board that the proposed development has been designed to minimize adverse impacts to the Natural Resources District to the greatest extent possible. Prior to rendering approval, the Board shall request advisory comments from the Director of Planning, the Soil Conservation District and the Maryland Department of the Environment.

Chesapeake Bay Critical Area Overlay District (Article 267-63)

- (1) Variances from the provisions of this section may only be granted if, due to special features of a site or other circumstances, implementation of this section or a literal enforcement of its provisions would result in unwarranted hardship to an applicant.
- (2) All applications for variances shall be reviewed by the Director of Planning for conformance with applicable provisions of this section, and a written report shall be provided to the Board of Appeals.
- (3) In granting a variance, the Board shall issue written findings demonstrating that the requested approval complies with each of the following conditions:

- (a) That special conditions or circumstances exist that are peculiar to the land or structure within the County's Critical Area, and a literal enforcement of the Critical Area Program would result in an unwarranted hardship.
 - (b) That a literal interpretation of the provisions of this section will deprive the applicant of rights commonly enjoyed by other properties in similar geographic and land use management areas within the Critical Area.
 - (c) That the granting of a variance will not confer upon the applicant any special privilege that would be denied by this section to other lands or structures within the Critical Area.
 - (d) That the variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.
 - (e) That the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and the granting of the variance will be in harmony with the purpose and intent of this section.
 - (f) That all identified habitat protection areas on or adjacent to the site have been protected by the proposed development and implementation of either on-site or off-site programs.
 - (g) That the growth allocation for the County will not be exceeded by the granting of the variance.
 - (h) That the variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.
- I. Special exceptions. All projects requiring approval as special exceptions within the Critical Area must meet the standards of this section. The Director of Planning may require such additional information, studies or documentation deemed necessary to ensure that applicable requirements of this district are met. Applications will not be considered complete for processing until all information as required by the Director of Planning has been received.

Change/Extension of Non-Conforming Use Requirements

267-20(3) - When authorized by the Board, one nonconforming use may be substituted for another nonconforming use.

267-21(d) - The Board may authorize the extension or enlargement of a nonconforming use, with or without conditions, provided that:

- (A) The proposed extension or enlargement does not change to a less restricted and more intense use.
- (B) The enlargement or extension does not exceed 50% of the gross square footage in use at the time of the creation of the nonconformity.

Special Exceptions Requirements (Article 267-87)

(a) Special exceptions require the approval of the Board of Appeals in accordance with 267-9 (Board of Appeals). The Board may impose such conditions, limitations and restrictions as necessary to preserve harmony with adjacent uses, the purposes of this Code and the public health, safety and welfare.

(b) A special exception grant or approval shall be limited to the Site Plan approved by the Board. Any substantial modification to the approved Site Plan shall require further Board approval.

(c) Extension of any use or activity permitted as a special exception shall require further Board approval.

(d) The Board may require a bond, irrevocable letter of credit or other appropriate guarantee as may be deemed necessary to assure satisfactory performance with regard to all or some of the conditions.

(e) In the event the development or use is not commenced within 3 years from date of final decision, after all appeals have been exhausted, the approval for the special exception shall be void. In the event of delays, unforeseen at the time of application and approval, the Director of Planning shall have the authority to extend the approval for an additional 12 months or any portion thereof. (See Article 267-88 for specific requirements of Special Exception uses.)

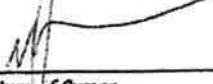
I/We agree to provide additional information as requested by the Department of Planning and Zoning or the Hearing Examiner.

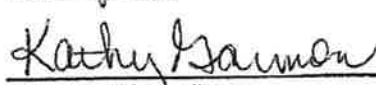
I/We do hereby declare that no officer or employee of Harford County, whether elected or appointed, has received prior hereto or will receive subsequent hereto any monetary or material consideration, any service or thing of value, directly or indirectly, upon more favorable terms than those granted to the public generally in connection with the submission, processing, issuance, grant or award of the within application or petition.


I/We do solemnly declare and affirm under the penalties of perjury that this petition contains names and addresses of all persons having legal or equitable interest in the property, including shareholders owning more than five percent (5%) of the stock in a corporation having any interest in the property, except those corporations listed and traded on a recognized stock exchange.


I/We do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit are true and correct to the best of my/our knowledge, information and belief.


I/We agree, upon final action, to comply with all requirements or conditions imposed by the Board.



Signature of Owner
Date 12/2/20



Signature of Co-Applicant
Date 12-2-2020


Signature of Attorney/Representative
Date 12/2/2020


Director of Planning and Zoning
Date 1/4/2021


Witness
Date 12/2/20

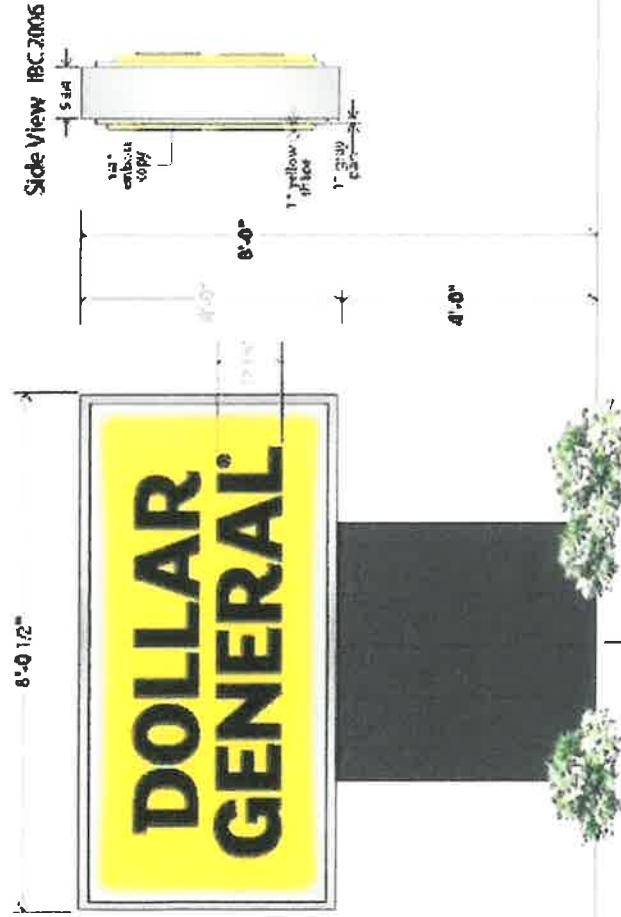

Witness
Date 12-2-2020


Witness
Date 12/2/20

Zoning Staff
Date

DOLLAR GENERAL 2009 Logo - 4'-0" x 8'-0 1/2" Double Face Monument Mount CP Sign

8'-0" Overall Height • 12 1/8" letter height



- Cabinet Size: 4'-0" x 8'-0 1/2" (9 3/4" DEEP)
- Mldg: 1 5/8" G molding (EX-249), removable end molding for servicing.
- V.O.: 3'-8 3/4" x 7'-9 1/4"
- Cabinet Finish: FM 171 brushed aluminum.
- Must be Cool White High Output Fluorescent Lamps
- Black logotype embossed 1/4" on special yellow embossed shape (Spraylat CB-2633 yellow, no exceptions) on Gray (PMS Cool Gray 5) background and returns.
- Decorative process: Production quantities are to have screen printed graphics (yellow, black, gray & white), no mask and spray.
- Labeling: Requires UL Label and Union Label.

NOTE: All signs come complete with ON/OFF switch and electric eye (when requested).



Dualite Sales & Service, Inc.
WILLIAMSBURG, OHIO • CEDAR HILL, TEXAS

Dualite Sales & Service, Inc.
One Dualite Lane
Williamsburg, Ohio 45176

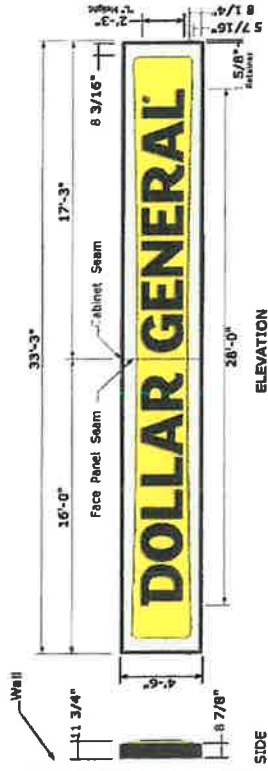
Scale: 3/8" = 1'-0"
#10-3-184DOLL-01-GSP
Date: 3-18-2010

Customer Approval
and Comments

This design is exclusive property of Dualite Sales & Service, Inc. • 1 Dualite Lane • Williamsburg, OH 45176 • Copyright 2010 Dualite Sales & Service, Inc. All Rights Reserved. Reproduction of this proprietary work without the permission of Dualite Sales & Service, Inc. will subject the user to liability under the copyright statutes of the United States.

DOLLAR GENERAL

4'-6" x 33'-3" WALL CABINET



.150" clear UV polycarbonate (Spartach) pan formed face with Black copy over Spraylat CB-2633 Yellow on PMS Cool Gray 5 background. Cabinet to be painted Satin Black.

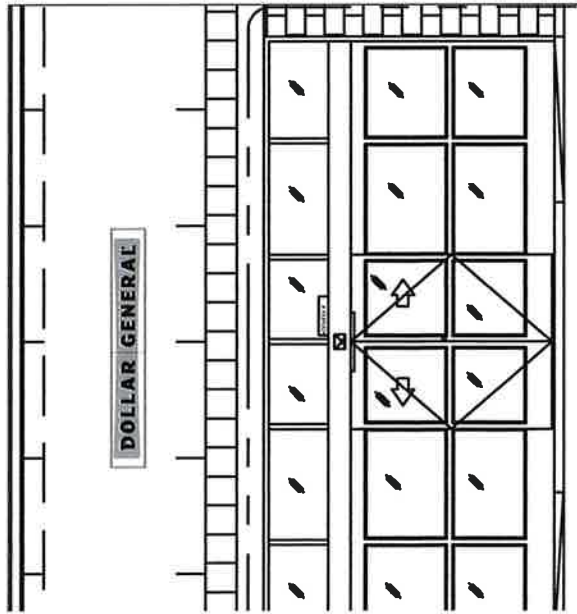
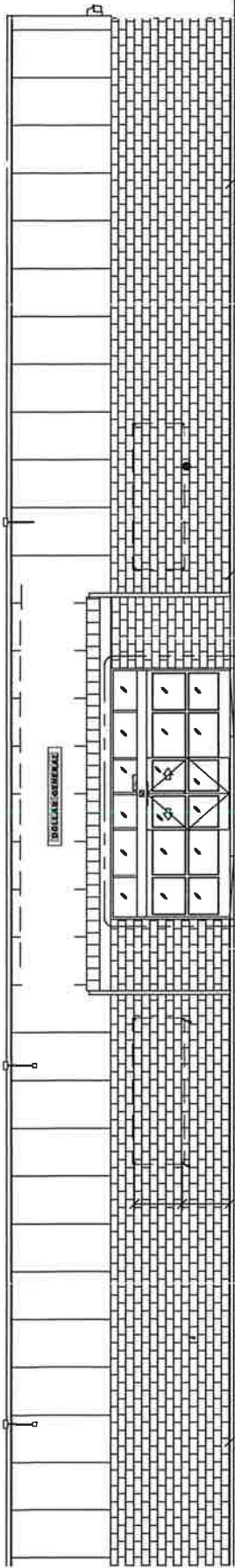
For Name: Dollar General Corporation, 2011
 Project #: 13-0181
 Date: 04/12/2013
 Approved By: _____

133 South Dixie Ave
 Conway, N.Y. 13762
 Tel: 607-535-5661
 www.dollargeneral.com

Material: 149.63 sq. ft.

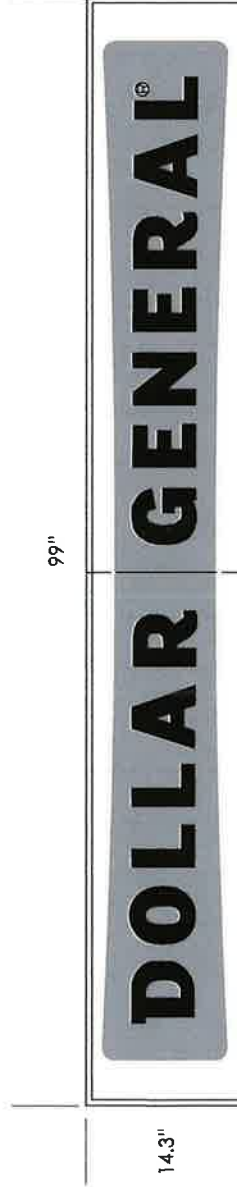
Color: Black (Copy) match Sample Book
 Back: Black (Copy) match Sample Book
 Top: Black (Copy) match Sample Book
 Bottom: Black (Copy) match Sample Book
 Sides: Black (Copy) match Sample Book
 Front: Black (Copy) match Sample Book
 Back: Black (Copy) match Sample Book
 Top: Black (Copy) match Sample Book
 Bottom: Black (Copy) match Sample Book
 Sides: Black (Copy) match Sample Book
 Front: Black (Copy) match Sample Book

EXHIBIT "L"



One (1) single sided internally LED illuminated 6" deep sign cabinet w/ .150" clear UV Polycarbonate Pan formed face.

Sq.Ft.=9.8



CLIENT:	Dollar General
SITE:	2800 Folston
CONSULTANT:	DD
DATE:	6-10-20
SCALE/ECH:	3/4"=1'
PROJECT:	Cabinet



COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND

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President

ANDRE V. JOHNSON
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District D

JOSEPH M. WOODS
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TONY "G" GIANGIORDANO
District C

CURTIS L. BEULAH
District F

June 1, 2021

NOTICE OF FINAL ARGUMENT BEFORE THE BOARD OF APPEALS

RE: Zoning Appeal Case No. 5939
APPLICANT: 2800 Fallston, LLC and Dolgencorp, LLC
LOCATION: 2800 Fallston Road, Fallston
REQUEST: Variance to permit a 50 square foot wall sign in the VB Village Business District

A request for final argument relative to the above referenced case was filed with the County Council/Board of Appeals on April 16, 2021, by Brian K. Young, Esquire, People's Counsel, on behalf of the Protestants.

Public hearing before the County Council/Board of Appeals for the purpose of final argument based on the evidence in the record will be held on:

TUESDAY, JUNE 29, 2021

6:00 P.M.

in the Council Chambers, 212 South Bond Street, First Floor, Bel Air.

The County Council/Board of Appeals shall notify the Applicant and all persons interested of their final decision by mail.

COUNTY COUNCIL OF HARFORD COUNTY

Mylia A. Dixon
Council Administrator

**cc: Applicant/Attorney; Protestants/Attorney; Adjoining Property Owners;
Registered Hearing Attendees; Planning and Zoning**





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District E

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District C

CURTIS L. BEULAH
District F

NOTIFICATION OF ZONING HEARING EXAMINER'S DECISION

DATE OF DECISION: March 31, 2021

HEARING EXAMINER: Robert F. Kahoe, Jr.

RE: Zoning Appeal Case No. 5939

APPLICANT: 2800 Fallston LLC & Dolgencorp, LLC

LOCATION: 2800 Fallston Road, Fallston

REQUEST: Variance to permit a 50 square foot wall sign
in the Village Business District

Enclosed is an official copy of the Hearing Examiner's decision relative to the above referenced case.

The Hearing Examiner's decision shall become final **APRIL 20, 2021**.

This decision shall be considered a recommended opinion to the Harford County Council, sitting as The Board of Appeals, if a written request for Final Argument before the Harford County Council is filed by the close of business on above date by the Applicant, Applicant's Attorney, Opponents, People's Counsel, or a person aggrieved who was a party to the proceedings before the Hearing Examiner. In addition, any Board Member, upon written notice to the Council Administrator, may request final argument.

COUNTY COUNCIL OF HARFORD COUNTY

Mylia A. Dixon
Council Administrator

Enclosure

cc: Applicant/Attorney; People's Counsel; Department of Planning and Zoning



**APPLICANTS: 2800 Fallston, LLC and
Dolgencorp, LLC**

**REQUEST: A variance to allow a 50 square foot
wall sign (10 square foot sign permitted) in the
VB Village Business District**

HEARING DATE: February 24, 2021

BEFORE THE

ZONING HEARING EXAMINER

FOR HARFORD COUNTY

BOARD OF APPEALS

Case No. 5939

ZONING HEARING EXAMINER'S DECISION

APPLICANT: 2800 Fallston, LLC

CO-APPLICANT: Dolgencorp, LLC

LOCATION: 2800 Fallston Road, Fallston, MD 21047
Tax Map: 47 / Grid: 1B / Parcel: 0332 / Account: 04-018834
Fourth (4th) Election District

ZONING: VB/Village Business District

REQUEST: A variance, pursuant to Section 267-33I(5)(b) of the Harford County Code, to permit a wall sign of 50 square feet (10 square feet allowed) in the VB Village Business District.¹

TESTIMONY AND EVIDENCE OF RECORD:

The subject parcel is a 1.43 acre lot, located at the southwest corner of the intersection of Fallston Road (MD Route 152) and Baldwin Mill Road (MD Route 165). The property is unimproved, although two fairly large, paved access drives, one from MD Route 152 and the other from MD Route 165, exist along with a fairly extensive paved parking area. The property was the former site of an Exxon station, now long gone although the paved areas from that service station remain. The property is proposed to be used for the site of a 9,100 square foot Dollar General store. The use is not at issue nor are the specifics of the site plan, which will be subject to Development Advisory Committee ("DAC") review. The only request before the Board of Appeals is for a variance to the provisions of the Signage Section of the Harford County Code to allow a wall sign of 50 square feet.

First for the Applicants testified David Taylor, who was offered and accepted as an expert in land use development with particular expertise in the Harford County Zoning Code and related regulations. Mr. Taylor is a professional engineer (see Applicants' Exhibit 1).

Mr. Taylor is familiar with the property and prepared the site plan (Applicants' Exhibit 2). A Dollar General store is a permitted use in this VB/Village Business District as a shopper's merchandise store.

¹ Applicants originally requested four sign variances. Prior to the hearing, their application was amended to delete all but one variance, and that request was modified downward from the original request.

Case No. 5939 – 2800 FALLSTON, LLC & DOLGENCORP, LLC

Mr. Taylor testified that the parcel is 1.43 acres in size and adjoins a large residential property to its west and residential uses to its south. Opposite the property on MD Route 165 is located a bank, and on opposite corners along MD Route 152 are a deli and a small shopping center. Mr. Taylor defined the area as mixed-use, containing both residential and commercial uses.

Because of extensive State Highway Administration rights-of-way at the intersection, the parcel itself is set back approximately 110 feet from the paved portion of MD Route 152 and approximately 110 feet from the MD Route 152/165 intersection. Existing entrances are located along both MD Route 165 and MD Route 152. Presently the property is otherwise unimproved and is used for the sale of small farm storage sheds. Mr. Taylor believes that the Exxon station which previously occupied the property was razed in the early 2000's.²

The design of the proposed Dollar General will use much, if not all, of the existing paved parking. The site plan shows that the Dollar General will be located next to and behind the paved parking area facing MD Route 152, which would place the front wall of the store 80 feet from the front property lot line, for a total of 190 feet from MD Route 152.

Mr. Taylor described photographs which were taken of the four corners of the intersection. These photos were offered and accepted as Applicants' Exhibits Nos. 2 - 6. Mr. Taylor stated, and the photos show, that the uses on the other three corners of the intersection contain commercial signage.

Mr. Taylor explained that Harford County sign regulations would only allow a wall sign for the Dollar General Store of 10 square feet in area. Applicants could locate such a sign on the store's front wall (facing MD Route 152) but feel that sign would be too small to adequately identify the store because of its distance from MD Route 152 and the MD Route 152/165 intersection.

In support of Applicants' request, Mr. Taylor described and offered photographs which had been taken of banners being held on the property to show how the signs would appear to one from both the front lot line and from MD Route 152. One banner is 10 square feet and the other is 50 square feet. Mr. Taylor stated that the 10 square foot sign is difficult to see from MD Route 152, as demonstrated by Applicants' Exhibit No. 10.

Mr. Taylor stated that, in his opinion, the 50 square foot sign, shown as Applicants' Exhibit No. 12 (190 feet from MD Route 152) provides better visibility, is more helpful to shoppers trying to find the store and helps maintain traffic safety. Mr. Taylor also identified front wall elevations of both the 10 square foot sign and 50 square foot sign in support of his argument (Applicants' Exhibit Nos. 7 and 8).

² Not testified to by Mr. Taylor, but Board of Appeals records would show, that the original Exxon station zoning case was vigorously contested by the neighborhood prior to its eventual approval in the mid-1980's. The resulting Exxon station was eventually found to be the source of extensive subsurface contaminants which forced the closing of the station and caused lengthy litigation between the neighbors and Exxon Corporation.

Case No. 5939 – 2800 FALLSTON, LLC & DOLGENCORP, LLC

Practical hardship results to the Applicant due to the depth of the right-of-way along MD Route 152 and the Applicants' decision to utilize existing parking structures according to Mr. Taylor. He feels this is a unique situation that causes the Applicants difficulty and can be corrected by the requested variance. A variance increasing the sign from 10 square feet to 50 square feet would have no adverse impact on the neighborhood. The Applicants did not create the hardship.

On cross-examination, Mr. Taylor acknowledged that a small shopping center could be developed on the property. The proposed sign itself will be illuminated interiorly and will project out about 5 inches from the wall. It is not a "3-D" sign. He acknowledged that while the subject property is zoned VB/Village Business, the parcels across MD Route 152 are zoned B1/Neighborhood Business.

Next for the Department of Planning and Zoning testified David Culver. Mr. Culver acknowledged that because of the late filing of the modified application, the Department of Planning and Zoning staff was not able to submit a written recommendation. However, Mr. Culver stated that the findings of the staff in the earlier Staff Report related to the original filing requesting four variances remain accurate. The property is not unique, and the Department recommends against the granting of the variances. The Staff Report states:

"The Department does not find this lot to be unique in shape or topography."

In opposition testified Beth Poggioli, resident of 2740 Greene Road, Baldwin, Maryland. Ms. Poggioli states that she is familiar with the property and the intersection and finds that none of the existing signs are difficult to see. The neighborhood, particularly along MD Route 165, consist of small residential uses, some of which having been converted to commercial uses. She described the land use for some distance along MD Route 165 and MD Route 152 around the subject property and characterized it as primarily residential and agricultural. Ms. Poggioli introduced a series of Google Maps photos generally showing the land uses in the area she described (Protestant's Exhibit Nos. 1 - 3). The sign variance in her opinion is not necessary as it would be impossible for anyone to miss a Dollar General. Everyone would know that it was there with only a 10 square foot sign. The wall sign will be visible from MD Route 152. Ms. Poggioli believes there to be no hardship to Dollar General if the variance is not granted. She also believes that the photographs submitted by Applicants which purport to show the difference between a 10 square foot sign and a 50 square foot sign are inaccurate representations.

Next in opposition testified Lynn Faulkner, who resides at 2126 Fallston Road, Fallston, Maryland. Ms. Faulkner lives close to the intersection of MD Route 165 and MD Route 152 and identified herself as a fifth-generation resident of the area. Ms. Faulkner opposed the use because of light pollution which will be generated by the proposed enlarged sign. She also feels that the sign itself, because of its size and illumination, would negatively impact the view. She does not want the Dollar General store near her neighborhood, regardless of the size of the sign.

Next in opposition testified Lee Harris, who resides at 2905 Fallston Road, Fallston, Maryland. Ms. Harris believes there is no reason for a larger sign because an illuminated sign is more offensive than one that is not illuminated. She also does not want this large, yellow sign in a rural area. The sign as proposed would be unusual due its large size. Its light will negatively impact the area and is not in keeping with other signage and uses in the area.

Case No. 5939 – 2800 FALLSTON, LLC & DOLGENCORP, LLC

Next in opposition testified Clarke Langrall, who resides on 2622 Greene Road, Baldwin, Maryland, close to the intersection of MD Route 152 and MD Route 165. Mr. Langrall repeated the testimony of other opponents and opposes any sign larger than 10 square feet.

Next in opposition testified Cyrus Etemad-Moghadam, who resides at 3004 Franklin's Chance Drive, Fallston, Maryland. Mr. Etemad-Moghadam feels that the sign as proposed is too large for the area; its yellow light will be offensive and there are no other similarly sized signs in the area.

Next in opposition testified Beth Scheir, who resides at 2814 Cross Country Court, Fallston, Maryland. Ms. Scheir emphasized that the property directly behind the proposed Dollar General store is residentially used. The subject parcel is surrounded by small businesses and residences and the 9,100 square foot. store proposed by Dollar General will be out of keeping with the neighborhood and would negatively impact it.

Next in opposition testified Stephanie Flasch, who resides at 1902 Norwood Court, Fallston, Maryland. Ms. Flasch opposes the requested variance and believes it is out of keeping with the rural character of this neighborhood. She supports local businesses and does not believe Dollar General will fit in.

Next in opposition testified Jonathan Goff, who resides at 2901 Fallston Road, Fallston, Maryland. Mr. Goff opposes the use for reasons given by other opponents. He also believes Dollar General stores in general are not well maintained. He has noticed trash in front of other Dollar General stores and is concerned that this would occur at the subject property. There will also be more traffic generated by the use. The intersection of MD Route 165 and MD Route 152 is already dangerous and has been the location of numerous accidents over the years.

Furthermore, stated Mr. Goff, the yellow light will attract insects and will affect property values.

A number of other residents testified in opposition, voicing the objections which had been stated by prior witnesses. Furthermore, other individuals were identified as being in opposition who did not testify.

APPLICABLE LAW:

Section 267-33I(5)(a) of the Harford County Code provides:

“(5) VB Village Business District. In addition to the requirements set forth in this section, signs in the VB District must comply with the following standards:

(a) One freestanding sign per parcel, which shall have a maximum of 18 square feet in area, shall be no more than 6 feet in height, shall be placed perpendicular to the road and shall be no less than 20 feet from the right-of-way.

Case No. 5939 – 2800 FALLSTON, LLC & DOLGENCORP, LLC

Section 267-33I(5)(b) of the Harford County Code provides:

- (b) "A wall sign for each use, which shall be attached only to the front of a building, shall be adjacent to the front entryway and shall be no larger than 10 square feet in area."*

Section 267-11 of the Harford County Code further provides:

"Variances.

- A. Except as provided in Section 267-63H (Chesapeake Bay Critical Area Overlay District, Variances), variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*
- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*
- B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after 2 years from the date of such disapproval.*
- D. In the event that the development or use is not commenced within 3 years from the date of the final decision after all appeals have been exhausted, the approval for the variance shall be void. In the event of delays, unforeseen at the time of the application and approval, the Director of Planning shall have the authority to extend the approval for an additional 12 months or any portion thereof."*

Case No. 5939 – 2800 FALLSTON, LLC & DOLGENCORP, LLC

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The subject parcel is set back approximately 110 feet from MD Route 152 behind a State Highway Administration (“SHA”) owned parcel. No signage can be erected within that SHA owned and controlled area. Accordingly, the Applicants argue that a 10 square foot wall sign located on the front of their building, which will be set back a further 80 feet behind the existing paved parking area, will create a difficulty or hardship because the sign is more difficult to view by passersby than if it were located closer to the road. In support of their argument, Applicants offered two exhibits, one showing a 50 square foot banner and the other showing a 10 square foot banner as viewed from MD Route 152. While the accuracy of these exhibits was challenged by a neighbor, it is obvious that a 50 square foot banner is much easier to see than a 10 square foot banner. Nevertheless, each can be seen, and the writing and letters on those banners are legible (See Exhibit Nos. 10 and 12). Therefore, the hardship and/or difficulty is not the 10 square foot sign cannot be seen, but that it is not as visible as a 50 square foot sign.

Opposing the Applicants was testimony from numerous neighbors who feel that the sign would be intrusive to their neighborhood and would tend to negatively impact what they perceive to be a quality neighborhood. These are totally subjective opinions (especially the neighbors’ objection to “yellow illumination”) but nevertheless must be considered.

Daihl v. County Board of Appeals of Baltimore County 258 Md. 157 (1970) addressed the aesthetics of a particular neighborhood, with the court finding that the aesthetic ambiance of the residentially zoned property and surrounding neighborhood is important and should be considered.

In the instant case, however, while at least some of the neighbors objected on what may be considered aesthetic grounds, the proposed sign will be located at the last unoccupied corner of a fully commercialized – with signage – intersection. The argument that the Dollar General sign will somehow more adversely affect the “aesthetic ambiance” of the area is not supported by the facts of record.

Red Roofs Inn v. People’s Counsel for Baltimore County 96 Md. App. 219, 624 A.2d 1281 (1993) concerned a requested variance to signage regulations of Baltimore County. In that case, the Court of Appeals held that a variance from sign regulations is an “area variance” and not a “use variance”:

“Because a variance from sign regulations is deemed to be an ‘area’ variance, the impact of which is viewed as being much less drastic than that of a ‘use’ variance, a party need only show ‘practical difficulty,’ the lesser standard of proof, to be entitled to relief.” Id. at 225

The standard to determine “practical difficulty” was set forth by the Court of Appeals in Anderson v. Board of Appeals 22 Md. App. 28 (1974), recited as follows:

1. *“Whether compliance with the strict letter of the restrictions governing area, set-backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.*

Case No. 5939 – 2800 FALLSTON, LLC & DOLGENCORP, LLC

2. *Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.*
3. *Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and the public safety and welfare secured.”*

The first step of the Anderson review process is to determine if compliance would unreasonably prevent the property owner from using the property for a desired purpose, being a Dollar General store, or render conformity potentially burdensome. It is found that the property can be used for Applicants’ intended purpose without the requested variance, but that compliance would be unnecessarily burdensome. Clearly a requirement that limits a wall sign to no more than 10 square feet in size, set 190 feet back from the main roadway, may fairly be called unnecessarily burdensome.

Regarding the second prong of the Anderson test, given the fairly intensive commercialization of the remaining three corners of the subject property’s intersection, the granting of the variance would do “substantial justice” to the Applicants, with no harm to other commercial and residential users and owners of the area around the subject property. That the property is zoned for this commercial use is not an issue. The commercial signage proposed will not be significantly different or more intrusive than that which already exists on the surrounding three corners of the intersection and would be directed toward the intersection, not surrounding residences.

Lastly, while some of the residents of the area would vehemently object, there is no evidence that the variance will negatively impact public safety or welfare.

The recommendation of the Department of Planning and Zoning that the subject parcel is not unique is noted and is found not to be persuasive. The subject property is set back 110 feet from MD Route 152, behind an unimproved SHA owned fee simple site which would appear to serve no present or future useful purpose. No additional signage of any nature is allowed by SHA in that area. Furthermore, the store would be set back an additional 80 feet from the roadway to make use of existing paved parking. The Staff Report states that this is not a unique situation but cites no examples of other similarly impacted properties. “Uniqueness’ requires that the subject property have an inherent characteristic not shared by other properties in the area.” Trinity Assembly of God of Baltimore City, Inc. v. People's Counsel for Baltimore County, 407 Md. 53 (2008). The subject property meets that standard.

Clearly, when looked at objectively, the property has unique characteristics. When combined with a finding of practical difficulty suffered by the Applicants, a recommendation that the variance be granted is mandated.

Case No. 5939 – 2800 FALLSTON, LLC & DOLGENCORP, LLC

CONCLUSION:

Accordingly, for the reasons as stated above, it is, hereby, recommended that the requested variance be approved.

Date: MARCH 31, 2021



ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on APRIL 20, 2021.

BARRY GLASSMAN
HARFORD COUNTY EXECUTIVE



JENNY B. JARKOWSKI
DIRECTOR OF PLANNING & ZONING

February 4, 2021

STAFF REPORT

BOARD OF APPEALS CASE NO. 5939

APPLICANT/OWNER: 2800 Fallston, LLC
4215 Long Green Road
Glen Arm, MD. 21057

CO-APPLICANT: Dolgencorp, LLC
421 West Main Street
Frankfurt, KY. 40601

REPRESENTATIVE: Bradley R. Stover
Shaffer, McLauchlin & Stover, LLC
836 South Main Street - Suite 102
Bel Air, MD. 21014

LOCATION: 2800 Fallston Road
Fallston, MD 21047
Tax Map: 47 / Grid: 1B / Parcel: 0332 / Account: 018834
Election District: Fourth (4)

ACREAGE: 1.43 +/- acres

ZONING: VB/Village Business

DATE FILED: January 4, 2021

HEARING DATE: February 24, 2021

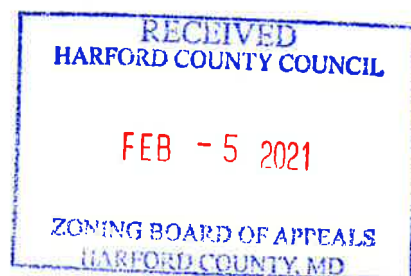
APPLICANT'S REQUEST and JUSTIFICATION:

Request:

See Attachment 1

Justification:

See Attachment 1



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220 South Main Street, Bel Air, Maryland 21014

THIS DOCUMENT IS AVAILABLE IN ALTERNATIVE FORMAT UPON REQUEST

STAFF REPORT

Board of Appeals Case Number 5939

2800 Fallston, LLC and Dolgencorp, LLC

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CODE REQUIREMENTS:

The Applicant is requesting 3 variances from Section 267-33(I)(5)(a) of the Harford County Code to allow a freestanding sign to exceed 6 feet in height (8 proposed), exceed 18 square feet (32 proposed) and to be within the 20 feet of the public right of way (6 foot from the right of way/property line proposed) in the VB District.

The Applicant is also requesting a variance from Section 267-33(I)(5)(b) of the Harford County Code to allow a wall sign to exceed 10 square feet in size (149 square feet proposed) in the VB District.

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicant is proposing to erect a free standing sign and a wall sign at 2800 Fallston Road for a proposed Dollar General Store. Enclosed with the report are copies of a location map and the Applicant's site plan (Attachments 2 and 3).

The subject property is located outside of the Development Envelope. The land use designations in the vicinity of the subject property is mixed between Rural Villages and Agricultural. The Sensitive Areas Map reflects Green Infrastructure Corridors and Hubs and Ecologically Sensitive Areas and Stream Systems are in the general area. The Applicant's property is designated as Rural Villages defined by the 2016 Master Plan as:

Rural Villages – Areas intended for concentrated residential, commercial and institutional uses located within the agricultural areas of the County that support the character and economy of the surrounding communities by providing necessary goods and service

Enclosed with the report are copies of the 2016 Land Use Map and the Sensitive Areas Map (Attachments 4 and 5).

Land Use – Existing:

The existing land uses in the area generally conforms to the overall intent of the 2016 Master Plan. The predominant land use is a mixture of residential, commercial and agriculture. Agricultural uses include large tracts of pasture and cropland. Residential uses in the area are single-family dwellings. Commercial uses are generally located around the subject property and along Scarff Road, Fallston Road and Baldwin Mill Road. These commercial uses include banks, convenience stores, restaurants, automotive service and personal and professional services. Institutional uses in the area include churches and parks.

STAFF REPORT

Board of Appeals Case Number 5939

2800 Fallston, LLC and Dolgencorp, LLC

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The subject property is approximately 1.43 +/- acres in size and is an irregularly shaped rectangle. The site currently houses an Amish shed business and was a former gas station. The Maryland Department of Assessment and Taxation records indicated no buildings are assessed on this site and a property area of 62,290 square feet. The subject property is mostly paved area with maintained lawn and scattered trees. The topography of the subject property is generally flat with sloping occurring along the westerly and southerly property lines.

A copy of the boundary, aerial photograph, topography map, hydrology and flood zone map and site photographs are enclosed with the report (Attachments 6, 7, 8, 9 and 10A - Z).

Zoning:

The predominant zoning classifications in this area of the County are VR/Village Residential, VB/Village Business, AG/Agricultural, RR/Rural Residential and B1/Neighborhood Business. The subject property is zoned VB/Village Business District (Attachment 11).

SUMMARY:

The Applicant is requesting 3 variances from Section 267-33(I)(5)(a) of the Harford County Code to allow a freestanding sign to exceed 6 feet in height (8 proposed), exceed 18 square feet (32 proposed) and to be within the 20 feet of the public right of way (6 foot from the right of way/property line proposed) in the VB District.

The Applicant is requesting a variance from Section 267-33(I)(5)(b) of the Harford County Code to allow a wall sign to exceed 10 square feet in size (149 square feet proposed) in the VB District.

Section 267-33(I)(5)(a)(b):

VB Village Business district. In addition to the requirements set forth in this section, signs in the VB district must comply with the following standards:

- (a) One freestanding sign per parcel, which shall have a maximum of 18 square feet in area, shall be no more than 6 feet in height, shall be placed perpendicular to the road and shall be no less than 20 feet from the right of-way.
- (b) A wall sign for each use, which shall be attached only to the front of a building, shall be adjacent to the front entryway and shall be no larger than 10 square feet in area.

Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the Applicants must show that the request will not be substantially

STAFF REPORT

Board of Appeals Case Number 5939

2800 Fallston, LLC and Dolgencorp, LLC

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detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

The subject property is located in an area identified as the Upper Crossroads Village. The Rural Village Study shall be used as a guide for achieving architectural compatibility as determined by the Director of Planning. New buildings shall be designed to be compatible and in harmony with the village relative to architectural design, scale, building height and the materials used in construction. This compatibility can be extended to the signage. As of the date of this report, architectural elevations and renderings have not been submitted or approved by the Department. The renderings included in this application have not been reviewed or approved.

The Department did note the applicants argument that that the right of way along Fallston Road is approximately 115 feet from the finished roadway to the subject property. While this amount of open right of way is unusual it is not unique. Since the general area of the intersection has open site lines and is lacking mature vegetation, visibility of the sign and building should not be hampered by this distance.

The Department does not find this lot to be unique in shape or topography. In addition, when reviewing the standards for Village Business and the Rural Village Study, and without approved architectural renderings, it does not appear that the requested variance would be in character with the VB zoned properties and in compliance with the goals of the Rural Village Study. Indeed, most traditional villages have limited signage to reflect the familiarity of the area with the community.

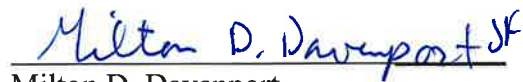
RECOMMENDATION:

The Department recommends the requested variances be denied. If the variances are granted the Department makes the following recommendations for conditions:

1. All necessary permits and inspections are completed.



David M. Culver
Development Review



Milton D. Davenport
Chief, Current Planning

DMC/MDD/jef

Exhibits: A1-12
P1-4

COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND

OFFICE OF THE ZONING HEARING EXAMINER

ZONING CASE NO. 5939

2800 Fallston, LLC & Dolgencorp, LLC

* * * * *

REMOTE VIA GOTOMEETING

Harford County
Administration Building
Council Chambers
212 South Bond Street
Bel Air, Maryland 21014

Wednesday, February 24, 2021

Commencing at 6:30 p.m.

Irwin Reporting
301 W. Pennsylvania Avenue
Towson, Maryland 21204
(410) 494-1880

A P P E A R A N C E

HEARING EXAMINER:

HARFORD COUNTY, MARYLAND

By: Robert F. Kahoe, Jr., Esq.
212 South Bond Street
Bel Air, Maryland 21014

DEPARTMENT OF PLANNING AND ZONING

By: David Culver, Planner
220 S. Main Street
Bel Air, Maryland 21014
dculver@harfordcountymd.gov
Telephone: 410-638-3103

ON BEHALF OF THE APPLICANT:

SHAFFER, McLAUCHLIN & STOVER, LLC

By: Bradley R. Stover, Esq.
836 South Main Street
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brad@smslawoffice.com
Telephone: 410-420-7992

ON BEHALF OF THE OFFICE OF PEOPLE'S COUNSEL:

LAW OFFICE OF BRIAN YOUNG

By: Brian Young, Esq.
808 South Main Street
Bel Air, Maryland 21014
brianyoung@harfordlaw.com
Telephone: 410-836-8836

P R O C E E D I N G S

HEARING EXAMINER: This is Board of Appeals' Case No. 5939. 2800 Fallston LLC and Co-Applicant Dolgencorp, LLC.

The request was originally for four variances. I believe that has been modified. The only request before us tonight is one requested variance to allow a sign, a wall sign, and which I believe is a sign to be over the front of the building; the wall is to be 50 square feet, which exceeds the statutory limitation of 10 square feet. So the variance to that requirement of a wall sign is only to be 10 square feet. The Applicant is asking for a variance to allow a 50-square-foot sign.

When you speak, I'd ask everybody to speak slowly, so the court reporter can take the comments down. We are being recorded, of course, by GoToMeeting. But the court reporter is also taking everything down, which is required by rule.

1 Counsel? Mr. Stover, anything
2 preliminarily?

3 MR. STOVER: Nothing preliminarily, Mr.
4 Kahoe.

5 HEARING EXAMINER: Mr. Young?

6 MR. YOUNG: Nothing preliminarily.

7 HEARING EXAMINER: Thank you, counsel.
8 Mr. Stover, do you want to start?

9 MR. STOVER: Sure. Thank you, Mr.
10 Kahoe.

11 For the record, Bradley R. Stover for the
12 Applicants, who you've identified as 2800 Fallston,
13 LLC and Dolgencorp, LLC.

14 As you've indicated, we're here on a
15 variance for a sign to be located on a Dollar
16 General store at 2800 Fallston Road, in Fallston,
17 Maryland.

18 This property is intending to be and is in
19 the process of being developed as a Dollar General
20 store, which is a permitted use under the Village
21 Business zoning set forth in 267-58 of the Code.

1 I do want to stress that we're not here
2 tonight seeking for any code relief with respect to
3 the use itself; in other words, the building.

4 The Applicant absolutely intends to comply
5 with the provisions of 267-58, which have the
6 regulations for the development of properties within
7 the VB, or Village Business District.

8 Specifically, we intend to comply with all
9 lot area and setback requirements, landscaping
10 requirements, buffer yard requirements, signage,
11 other than as we're going to discuss tonight, the
12 plan requirements and particular to the Village
13 Business District, architectural design approval
14 requirements for new building construction in the
15 VB. We're not seeking in any way, shape, or form
16 for a variance from those provisions.

17 With respect to the permitted use, in fact,
18 Mr. Kahoe and all involved, we have already had a
19 community input meeting and plans have been
20 submitted to the County and are going through the
21 Development Advisory Committee review process.

1 That process has been robust. Certainly
2 community members have participated in fairly large
3 numbers at both the community input meeting and the
4 DAC meeting. And I think that participation is
5 evidenced tonight.

6 Based on many of the concerns that were
7 heard -- again, I'm speaking only solely towards
8 tonight's proceedings -- there was initially an
9 application for four variances from the sign code.

10 Initially, the Applicants were going to
11 seek a variance from the sign code provisions in the
12 Village Business District with respect to height for
13 a free-standing sign. That has been withdrawn.

14 With respect to the face size of a
15 free-standing sign, that has been withdrawn with
16 respect to the location for a free-standing sign.
17 That has been withdrawn.

18 With respect to any free-standing signage
19 that the Applicants intend to install on their
20 property, they will comply with the provisions of
21 the Code without need for any variance.

1 That leaves us with one variance request.
2 And that request has been modified or amended from
3 the original application. Initially, the Applicants
4 sought a variance from the 10-square-foot Code
5 requirement to allow a 149-square-foot sign.

6 As you will hear this evening, we have
7 amended that by two-thirds really, down to about 50
8 feet. Again, a lot of that is because the community
9 has been very robust in their participation. That
10 was the reason for trying to scale back on some of
11 those requests.

12 Tonight, I intend to call David Taylor, as
13 an expert witness, to testify regarding this
14 request.

15 He will offer testimony to support the
16 Applicants' case and meet the burden of proof for
17 tonight for the sign variance, which mainly would be
18 that strict provision of the Code requirements for
19 signage on buildings in the Village Business
20 District would create a hardship. I'm going to have
21 Mr. Taylor testify to meet the burden.

1 The case tonight will essentially be that
2 the hardship is caused by the existence of an over
3 100-foot State Highway right-of-way in between the
4 paved road of Maryland Route 152 and the proposed
5 use and the sign located on that use.

6 Mr. Taylor will testify that the Applicant
7 did not cause any of these hardships, and he will
8 testify that the property is unique due to its
9 configuration, the existing right-of-way and the
10 fact that the existing parking lot on the building
11 is going -- excuse me -- the property is going to be
12 used in conjunction with an adaptive reuse.

13 So with that, Mr. Kahoe, I will call Mr.
14 Taylor as my first witness. Let me swing my camera
15 around, so he can be sworn in.

16 Just a second.

17 HEARING EXAMINER: Hold on for a
18 second. Let's try to do this as a group.

19 Anybody who's listening in, who they may --
20 he or she may want to testify this evening, please
21 raise your right hand, at this point, and we'll have

1 everybody sworn in as a group.

2 If you think you'll testify, just raise
3 your right hand. We'll get it out of the way.

4 Everybody has got their right hand up?
5 Ann, you're on.

6 (Witnesses Sworn.)

7 EXAMINATION BY MR. STOVER:

8 Q. Mr. Taylor, your name and address, for the
9 record, please, sir.

10 A. Yes. My name is David Taylor. I live at
11 163 Bruce Woods Court in Abingdon, Maryland.

12 Q. And what is your occupation, Mr. Taylor?

13 A. I am a licensed, professional civil
14 engineer involved with land development, planning
15 and engineering.

16 MR. STOVER: Mr. Kahoe, it's my intent
17 this evening to offer Mr. Taylor as an expert in the
18 field of land use development with expertise in the
19 Harford County Zoning Code. I am prepared to
20 qualify him as such, or I am prepared to offer his
21 exhibit -- excuse me -- his resume as the

Applicants' Exhibit No. 1.

MR. YOUNG: There is no objection to that, Your Honor.

HEARING EXAMINER: Mr. Young, are you okay?

MR. YOUNG: No objection.

HEARING EXAMINER: Thank you, Mr. Young. Mr. Stover, Mr. Taylor has testified before the Board on numerous occasions before as an expert in land use development, with expertise in the Harford County Zoning Code and development regulations.

MR. STOVER: Thank you, Mr. Kahoe. And I did upload with Ms. Smith, Mr. Taylor's CV, so that should be within the documents. And I would offer that as the Applicants' Exhibit No. 1.

Q. (Mr. Stover) Mr. Taylor, are you familiar with the property that is the subject of tonight's application?

A. Yes, I am.

Q. And have you physically visited the

1 property?

2 A. Many times.

3 Q. And what's the most recent occasion that
4 you've visited the property?

5 A. I was out there visiting yesterday.

6 Q. Did you in your capacity as an engineer for
7 the Applicants prepare a plan for this evening's
8 application?

9 A. I did.

10 MR. STOVER: And, Mr. Kahoe, if you
11 allow me to share my screen, I will pull up that
12 plan.

13 Does everybody see that?

14 MR. CULVER: No.

15 MR. STOVER: How about now?

16 MR. CULVER: We got it.

17 Q. You got it?

18 MR. CULVER: You got it.

19 MR. YOUNG: If I could just interject
20 for one moment.

21 For anyone who is viewing this on Zoom,

1 there should now be a bar in the middle of your
2 screen. The top part of it probably has got a whole
3 bunch of little tiles of peoples' faces and the
4 bottom has a plan.

5 If you grab the bar and drag it up, you can
6 switch the ratio, so you might actually be able to
7 see.

8 Thank you, Mr. Stover.

9 MR. STOVER: Thank you. I can maybe
10 zoom it in, in theory.

11 Q. (By Mr. Stover) Mr. Taylor, is this the
12 plan that you've prepared for this evening's
13 hearing?

14 A. It is.

15 MR. STOVER: Mr. Kahoe, again, I
16 provided this to Ms. Smith via the Dropbox. I would
17 offer Mr. Taylor's site plan as the Applicants'
18 Exhibit No. 2.

19 HEARING EXAMINER: I have a copy of it.
20 It's in the file. I will accept it as Exhibit 2.

21 Q. (By Mr. Stover) Briefly, Mr. Taylor, what

1 is the Applicants' intended use for this property?

2 A. This is the redevelopment of an existing
3 piece of property for a Dollar General store.

4 Q. And what is the zoning classification for
5 this property?

6 A. VB; Village Business.

7 Q. And is the Dollar General store a permitted
8 use in the VB District?

9 A. It is.

10 Q. And, specifically, is it defined under the
11 Code as a shoppers merchandise store?

12 A. Yes.

13 Q. Just touching on the parcel, generally, to
14 set the background, what is the size of the parcel?

15 A. 1.43 acres.

16 Q. How are the adjacent properties improved
17 and used?

18 A. Well, we have residential -- a large size
19 residential property to the west. That's on the
20 left side of the plan. And then to the south, also
21 residential. On the opposite side of Baldwin Mill

1 Road, it's a bank. And on the opposite side of 152,
2 it's a Savory Deli store, and catty-corner is a
3 small shopping center.

4 Q. And expanding beyond the adjacent
5 properties, can you generally describe this
6 neighborhood area?

7 A. Yes. This area is comprised of mixed uses;
8 again, large-lot single family homes, some personal
9 uses to the south on Baldwin Mill Road and also
10 commercial uses, again, on each one of the opposite
11 corners of the intersection.

12 Q. And describe the road network around the
13 subject property.

14 A. This property fronts Fallston Road,
15 Maryland Route 152, as well as Baldwin Mill Road.
16 The two intersect sort of east, west, north and
17 south.

18 Q. And both 152 and 165 are State roads?

19 A. They are.

20 Q. Specific to Maryland Route 152, does a
21 State Highway Administration right-of-way exist

1 beyond the paved road?

2 A. Yes, it does.

3 Q. And where on the plan can that be seen?

4 A. Well, it's a large area of open space
5 really between the road and the property line, which
6 is approximately 110 feet from the road to the
7 parking lot.

8 Q. And this being a right-of-way, it cannot be
9 developed by the Applicants, is that correct?

10 A. That's correct. That a right-of-way for
11 any future potential road improvements by State
12 Highway.

13 Q. How is this property being used currently?

14 A. It's currently a sales area for Amish
15 sheds.

16 Q. And are there any improvements on the
17 property in connection with those sales?

18 A. Sure. There are some improvements; two
19 entrances off of 152 and one off Baldwin Mill,
20 accessing an existing parking lot.

21 Q. And prior to the Amish shed sales -- say

1 that fast three times -- how was the property used?

2 A. It was at one time a gasoline station.

3 Q. Approximately, how long was it a gasoline
4 station?

5 A. I believe it was filled around 1986 and it
6 was removed in the early 2000s.

7 Q. And do any improvements from the gas
8 station still remain on the property?

9 A. What is out there right now is -- are
10 vestiges, I guess, of the Exxon gas station, which
11 includes three entrances. The parking lot; you can
12 still see some residual building pad/slabs as well.

13 Q. With respect to the parking lot, is it the
14 Applicants' intention to essentially reuse that
15 existing parking lot in conjunction with its
16 project?

17 A. Yes. That is actually the idea. We want
18 to try to make use of the existing infrastructure to
19 the extent possible.

20 Q. Same question with respect to the access
21 points. Will any of those be used for the proposed

Dollar General?

A. Two out of the three are proposed to be used. We want to eliminate the one closest to the intersection.

Q. Where on the property will the Dollar General building be located?

A. It is to be located, approximately, where the old gasoline station building pads were.

Q. And the frontage of the building, which road will the building front?

A. It will front 152.

Q. What's the square footage of the proposed building?

A. 9,100 square feet.

Q. What's the distance or what will the distance from the road be?

A. We are proposing to put the building approximately 190 feet from Maryland 152 to the front of the building. It would be approximately 100 feet from the southeast corner, I guess it would be, or northeast corner to Baldwin Mill Road from

1 the corner of the building.

2 Q. And the Applicants, are they currently
3 going through the Development Advisory Committee
4 process for approvals for this building in
5 development of the site?

6 A. They are actively engaged in working with
7 the DAC review.

8 Q. So that process is ongoing?

9 A. It is.

10 Q. There was a Community Input Meeting held?

11 A. It was.

12 Q. I'm going to show you a series of
13 photographs.

14 MR. STOVER: Everybody see the first
15 photograph I pulled up?

16 Q. (By Mr. Stover) I'm going to show you a
17 series of photographs that I will purport are
18 photographs of the four uses at the intersection of
19 152 and 165.

20 MR. STOVER: Again, Mr. Kahoe, they
21 were provided to Ms. Smith to be put in the Dropbox.

1 Q. (By Mr. Stover) Mr. Taylor, can you tell us
2 what this first photograph depicts?

3 A. Yes. What we're looking at here is the
4 BB&T, which is to the east of the Dollar General
5 store site.

6 Here, we're basically standing in the
7 intersection of 152 and 165, looking at the shopping
8 center which is at the corner of the -- I would say
9 that's the northeast corner of that intersection.

10 Q. I'm showing you the next photograph.

11 A. Here, again, standing in the intersection,
12 looking north up 165 towards the Savory Deli.

13 Q. And these three photographs and the uses
14 that you have shown, do all have --

15 (Video feed disturbance.)

16 A. Some free-standing signs there with the
17 Savory Deli.

18 Q. And then the last photo. If you could
19 describe this last photo.

20 MR. YOUNG: Mr. Kahoe, I have lost the
21 feed.

1 A. Shows the entrance to 152 as well the
2 parking --

3 MR. YOUNG: Mr. Stover and Mr. Kahoe, I
4 have lost the feed. I'm not sure if anybody has or
5 not.

6 (Reporter comment.)

7 (Last answer read.)

8 (Discussion off record.)

9 MR. YOUNG: Mr. Stover is having
10 technical issues and just sent a chat that he will
11 log out and log back in to try to fix the sound
12 feed.

13 HEARING EXAMINER: The photo now would
14 be number 6, which would be of the lot, the
15 unimproved lot of the subject property.

16 MR. STOVER: Let me pull that back up.

17 **Q. (By Mr. Stover) Going back to this photo,**
18 **if you could identify what this photograph depicts.**

19 A. So we're looking at the subject property,
20 the entrance closest to the intersection as well as
21 the parking lot in the background.

1 MR. STOVER: Mr. Kahoe, those four
2 photos were uploaded with Ms. Smith. I would offer
3 those as the Applicants' Exhibit Nos. 3, 4, 5, 6.

4 MR. YOUNG: No objection to that.

5 HEARING EXAMINER: Thank you, Mr.
6 Young. I accept the photographs, Mr. Stover.

7 Q. (By Mr. Stover) Mr. Taylor, the Applicants
8 now seek a variance for the size of the sign to be
9 located on the proposed building, is that correct?

10 A. Yes.

11 Q. Does 267-33(I)(5) of the Code set forth
12 requirements in the VB with respect to a sign on a
13 building?

14 A. It does.

15 Q. And what are those requirements?

16 A. A wall sign for each use shall be attached
17 to the front of the building and adjacent to the
18 front entryway no larger than 10 square feet.

19 Q. And do the Applicants propose that the sign
20 be attached to the front of their building?

21 A. Yes.

1 Q. And do the Applicants propose that the sign
2 be located adjacent to the front entryway?

3 A. Yes.

4 Q. So really the only variance they're seeking
5 from the Code is to have a sign in excess of 10
6 square feet, is that correct?

7 A. That's correct.

8 Q. You mention it was 10 feet per use.
9 What is your understanding of why the sign
10 code indicates per use?

11 A. Well, if it was to be developed as a
12 shopping center, there would be multiple uses; each
13 use would be allowed to have 10 square feet.

14 Q. The Applicants, to be clear tonight,
15 though, are not seeking to develop this property as
16 a shopping center, is that correct?

17 A. Yes.

18 HEARING EXAMINER: Let me interrupt,
19 Mr. Stover. Everybody is looking at a screen. It's
20 a GoToMeeting screen.

21 MR. STOVER: Sorry. I'm getting ready

1 to pull up my very next --

2 HEARING EXAMINER: Sorry. Okay. Go
3 ahead.

4 MR. STOVER: Can everybody see the
5 architectural rendering?

6 HEARING EXAMINER: Yes, we do.

7 Q. (By Mr. Stover) Mr. Taylor, have the
8 Applicants prepared an architectural rendering
9 showing their hope for a sign on the Dollar General
10 building?

11 A. They have.

12 Q. And we're looking at what's pulled up on
13 the screen.

14 Is this a true and accurate copy of that
15 architectural rendering?

16 A. Yes, it is.

17 Q. And does this rendering, again, show that
18 the sign would be located near the front entryway of
19 the proposed building?

20 A. Yes, it does.

21 Q. And is it on the front of the proposed

1 building?

2 A. It is.

3 Q. And does this also indicate the square feet
4 of the proposed signage?

5 A. It does. I think it's on there but
6 covered.

7 There it is; on the right side of the plan.

8 Q. It says 48 square feet, right?

9 A. Correct.

10 MR. STOVER: Mr. Kahoe, this was
11 downloaded and given to Ms. Smith for purposes of
12 downloading it. And we would offer this as the
13 Applicants' Exhibit No. 7.

14 HEARING EXAMINER: All right. If there
15 is no objection, I will accept No. 7.

16 Q. (By Mr. Stover) Mr. Taylor, have the
17 Applicants also prepared a rendering showing what
18 the sign would look like on a Dollar General
19 building, adhering to the 10-foot requirement?

20 A. Yes, they have.

21 (Share Screen.)

1 Q. (By Mr. Stover) We're looking at the
2 screen.

3 Is this a true and accurate copy of that
4 architectural rendering?

5 A. It is.

6 Q. And, again, this shows a sign that is
7 slightly less than 10 square feet and will be
8 permitted by code, is that correct?

9 A. That's correct.

10 Q. And it shows the sign being located near
11 the front entryway?

12 A. Yes.

13 Q. And does it show the sign being located on
14 the frontage of the building?

15 A. Yes.

16 Q. And based on this drawing, is the sign when
17 constructed to the 10-foot requirement code, is it
18 difficult to see?

19 A. It is difficult.

20 Q. And is this in fact the driver for why the
21 Applicants seek to enlarge the size of the sign?

1 A. It is. It's difficult to see, particularly
2 at a great distance.

3 MR. STOVER: Mr. Kahoe, I would offer
4 this rendering as the Applicants' Exhibit No. 8.

5 HEARING EXAMINER: Number 8 accepted.

6 Q. (By Mr. Stover) Mr. Taylor, did you and
7 several representatives of the Applicants go on-site
8 and take some photographs depicting what the
9 proposed sign and current allowed size would look
10 like?

11 A. Yes, we did.

12 Q. I will pull those up.

13 (Share Screen.)

14 UNIDENTIFIED SPEAKER: Excuse me for a
15 minute. Can we have any say about any of this, or
16 do we have to wait our turn to talk.

17 HEARING EXAMINER: Mr. Goff, you're
18 going to have to wait your turn.

19 MR. GOFF: I hear this "No objection."
20 But we are objecting. But we have to wait our turn
21 to say anything?

1 HEARING EXAMINER: You're going to have
2 to wait your turn. You will have an opportunity to
3 say whatever you want to say related to this case.

4 Anybody and everybody participating this
5 evening will have plenty of time to tell me what
6 they want to say.

7 Right now, you're going to sit back and
8 listen to what's being said.

9 Mr. Stover, ask your question, again.

10 Q. (By Mr. Stover) Mr. Taylor, you and several
11 representatives of the Applicants went on-site to
12 take some photographs of what the sign would like
13 from the road, from 152, is that right?

14 A. Yes, we did.

15 Q. I'm showing you, first, a photograph.

16 Mr. Taylor, are you in this photograph?

17 A. I am one of the individuals holding up a
18 sign.

19 Q. Is one of the representatives of the
20 Applicants the person taking this picture?

21 A. Yes.

1 Q. And the sign you see there, is that the
2 sign as it would be permitted; in other words, the
3 10-foot square sign?

4 A. Yes, that is the 10-foot square foot sign.

5 Q. And from where on the property is this
6 photograph taken?

7 A. This photograph was taken roughly midway in
8 the grassed, open area between the highway and the
9 parking lot.

10 Q. Okay. So near the entrance.

11 A. Yes.

12 (Share Screen.)

13 Q. (By Mr. Stover) Again, I will show you a
14 photograph. It's going to be difficult for
15 everybody to see.

16 But is this a photograph, also, depicting
17 the 10 square foot sign that would be permitted by
18 code?

19 A. It is, in fact.

20 Q. And, again, difficult to see.

21 But can you describe where you are standing

1 with the sign in this picture?

2 A. Well, the photograph is standing at the
3 highway edge, and the sign and those holding it are
4 between the two structures in the center of the
5 picture.

6 Q. And you would agree it's difficult to see.

7 A. It is very difficult to see.

8 (Share Screen.)

9 Q. (By Mr. Stover) Next, I'm showing you a
10 photograph.

11 Does this photograph depict the sign that's
12 being requested by the Applicants; in other words,
13 the roughly 48 square foot sign?

14 A. It is.

15 Q. Are you, again, in this picture one of the
16 people holding the sign?

17 A. I am.

18 Q. Where was this photograph taken from?

19 A. This photograph was, again, taken near one
20 of the existing entrances, roughly halfway between
21 the highway and the parking lot.

(Share Screen.)

Q. (By Mr. Stover) Finally, the fourth photograph.

Again, does this photograph depict the sign as is being requested by the Applicants; the roughly 48 square foot sign?

A. It does.

Q. And where is this photograph taken from?

A. This photograph is taken closer to the highway.

Q. Would you agree that the sign as being proposed by the Applicants, for which they seek a variance, is more readily visible than the sign that is permitted by code?

A. Absolutely.

MR. STOVER: Mr. Kahoe, I would offer those four photographs. Again, they were provided to Ms. Smith, as the Applicants' Exhibit Nos. 9 through 12.

HEARING EXAMINER: They will be accepted.

1 Q. (By Mr. Stover) Mr. Taylor, would adhering
2 to the 10 square foot requirement, as evidenced by
3 these pictures, make a sign on the proposed Dollar
4 General building difficult to see from Maryland
5 Route 152?

6 A. Yes. In fact, that was why we went out
7 there and took these pictures, just to see exactly
8 what it would look like. It is very difficult to
9 see.

10 Q. And I should have asked you this question.
11 Did you run measurements, when you were on
12 site, to ensure that where you were standing with
13 the sign is in the approximate location where the
14 building would be located?

15 A. Yes. We took a tape measure, and we
16 measured. And the sign that you're seeing is in
17 exactly the location of the front of the building.

18 Q. Is the difficulty due, in your opinion, to
19 the extent of the right-of-way along Maryland Route
20 152?

21 A. Absolutely. It's just about 110 feet of

1 setback from the highway to the parking lot, and
2 there's an additional 80 feet or so to the front of
3 the building. So the building sets back 190 feet
4 from the highway.

5 Q. So really it's a combination of the
6 right-of-way and the adaptive reuse of the parking
7 lot, is that right?

8 A. That's correct.

9 Q. And in your opinion, Mr. Taylor, could
10 being required to have a 10 square foot sign on the
11 front of the building give any safety or traffic
12 concerns, in your view?

13 A. I think it would. It would make it very
14 difficult to see by a traveler. And, basically, you
15 would have to strain yourself to see the sign and
16 what it says.

17 Q. Would requiring the Applicant to adhere to
18 the 10 square foot sign requirement propose a
19 practical hardship?

20 A. I believe so.

21 Q. And, again, is this due to the size of the

1 right-of-way along Route 152 as well as the existing
2 parking lot, pushing the building back off of the
3 road?

4 A. Yes.

5 Q. I believe you already testified to this.

6 But did the right-of-way exist prior to the
7 time the Applicants bought the property?

8 A. Yes, it did.

9 Q. And in your opinion, Mr. Taylor, does the
10 fact that this right-of-way exists along the front
11 of the property combined with the fact that a
12 parking lot exists on there that will be reused make
13 this property unique?

14 A. I believe it's very unique, and you can
15 compare it with the properties on the other side of
16 the highway, which are right up against the highway.
17 You can easily see their signage. But this signage
18 would be quite a bit farther than those signs.

19 Q. So focusing strictly on the sign, which is
20 the subject at tonight's hearing and not the use, in
21 your opinion, will the granting of the variance for

1 the sign have an adverse impact on the number of
2 persons living or working in the immediate area?

3 A. In my opinion, no.

4 Q. And in your opinion, will the granting of
5 the variance adversely affect the orderly growth of
6 the neighborhood and community?

7 A. No.

8 Q. In your opinion, will the granting of the
9 variance for the sign generate any noise, odors,
10 dust, gas, smoke, fumes, or glare that would
11 adversely impact any adjacent properties?

12 A. No.

13 Q. In fact, allowing the sign to be expanded
14 from 10 to approximately 48 square feet will have
15 the benefit of making the sign more visible.

16 A. Yes, it would. And I think that's a safer
17 condition.

18 Q. Is the requested variance consistent with
19 generally accepted engineering and planning
20 principles and practices?

21 A. Yes.

1 Q. Are there any nearby schools, library, or
2 churches that would be adversely impacted by the
3 granting of this variance?

4 A. No.

5 Q. Do you believe this variance is consistent
6 with the purposes of the Code and the Master Plan?

7 A. Yes.

8 Q. Are there any environmentally sensitive
9 features on-site that will be adversely impacted by
10 the granting of the sign variance?

11 A. No.

12 Q. To your knowledge, are there any cultural
13 or historical landmarks on the property that will be
14 impacted by the sign variance?

15 A. No.

16 Q. In your opinion, Mr. Taylor, would strict
17 adherence of the sign Code provisions cause a
18 hardship on the Applicants?

19 A. No, it would not.

20 Q. And due to the existing parking lot and
21 extensive right-of-way being existing before the

1 Applicants took title, did the Applicants not create
2 this hardship?

3 A. They did not create this hardship.

4 Q. In your opinion, is the property unique in
5 so far as the Applicants will be reusing the parking
6 lot and the large right-of-way that exists?

7 A. Yes.

8 Q. In your opinion, are the Applicants seeking
9 the minimum relief needed?

10 A. Yes.

11 Q. And, in fact, that was part of the purpose
12 of the exercise of going out to the property to take
13 the photographs?

14 A. It was. Yes.

15 Q. To your knowledge, are the Applicants
16 seeking any other special exception or variance
17 relief as to this development?

18 A. They are not.

19 Q. And the use itself will continue to be
20 subject to the provisions of the Code.

21 A. Yes.

1 Q. And the Applicants will be required to go
2 to complete the DAC process in order to construct
3 the Dollar General building.

4 A. Correct.

5 Q. And the Applicants will, other than the
6 relief being requested tonight, be required to
7 adhere to provisions 267-58 of the Code --

8 A. Yes.

9 Q. -- as set forth in the VB requirements.

10 A. Yes.

11 MR. STOVER: I don't have any further
12 questions for Mr. Taylor, Mr. Kahoe.

13 HEARING EXAMINER: Mr. Young.

14 EXAMINATION BY MR. YOUNG:

15 Q. Mr. Taylor, do you believe that a shopping
16 center could be developed on this property?

17 A. It's a limited -- the property is limited
18 in size. Some sort of shopping center, perhaps,
19 could be constructed.

20 UNIDENTIFIED SPEAKER: No, we don't
21 want that. I'm serious. We don't want that.

1 MR. YOUNG: Mr. Goff, please mute your
2 feed and stop the visual reactions.

3 Q. (By Mr. Young) I'm sorry, Mr. Taylor.
4 Could you repeat what you had said at the end of
5 your statement?

6 A. I said it is -- I think it would be
7 possible. It's dependent on the proposed uses. But
8 a small shopping center, strip center could be
9 developed on this property.

10 Q. Would that be a principally permitted use?

11 A. It would have to be a principally permitted
12 use, yes.

13 Q. The signs that you were holding up in
14 pictures 7 through 10, were those signs LED
15 illuminated?

16 A. No. What we did was to take a banner-sized
17 white banner out there and stretch it for the
18 distance. Basically, we sided -- we cut out a sized
19 banner and then photo shopped in the sign for Dollar
20 General. The banner gave us the dimensions of the
21 actual sign.

1 Q. And was that a three-dimensional rendering
2 of the sign?

3 A. No. It's two dimensional.

4 Q. Okay. And the sign that's proposed, would
5 that be a three-dimensional sign?

6 And I call your attention to your exhibit
7 labeled "Wall-Mounted Sign Rendering," which I
8 believe is Exhibit 11.

9 A. Well, it does project from the face of the
10 building somewhat. It is an LED sign with depth.

11 Q. And would the depth and illumination of
12 that sign enhance the ability to see a sign
13 regardless of the size?

14 A. Well, lighting would always enhance the
15 visibility of a sign.

16 Q. Thank you.

17 Could you please refer to your Exhibit 2;
18 the site plan?

19 MR. YOUNG: Mr. Stover, is it possible
20 for you to bring that back up on the screen?

21 MR. STOVER: Sure. Is that good?

MR. YOUNG: Yes. Thank you.

(Share Screen.)

Q. (By Mr. Young) Mr. Taylor, as best you can in this forum, can you identify where the free-standing sign that's proposed would be located?

A. Is there a pointer?

Yes, that's the location of the proposed free-standing sign.

Q. And does that location propose taking into account that there is intended to be a wall-mounted side on the front of the property?

A. The two signs are somewhat independent of one another, I believe. They serve different purposes.

HEARING EXAMINER: Mr. Taylor, describe where the free-standing sign is to be located, because we're making a record here. Describe what it's going to be.

WITNESS TAYLOR: I'm sorry. I couldn't understand that.

HEARING EXAMINER: Go ahead, Mr.

1 Young.

2 Q. (By Mr. Young) Can you, please, describe
3 what you're pointing to with your cursor?

4 A. Yeah, we're pointing to the location of the
5 proposed free-standing sign, which is a separate
6 sign from the building-mounted sign.

7 Q. And that's close to 165 at the southeast
8 corner of this property, is that correct?

9 A. That's correct. It would have to be
10 located 20 feet beyond the right-of-way -- the
11 proposed right-of-way.

12 Q. Could the free-standing sign be located 20
13 feet from the right-of-way of 165 and at the corner
14 of the right-of-way with 152, on the northeast
15 corner of the property?

16 A. Is there any way that you identify that a
17 little better?

18 Q. You're at the southeast corner of the
19 property as the location for the free-standing sign.

20 Is there any reason why the free-standing
21 sign couldn't, instead, be located at the northeast

1 corner of the property?

2 A. Well, it could not be located in the State
3 Highway right-of-way.

4 Q. Okay. So where --

5 A. It would have to be on the property. And
6 due to the parking lot being within 10 or 15 feet of
7 the property line, locating a sign 20 feet off the
8 property line would put it in the parking lot.

9 Q. So it's your testimony that there's no
10 location in the northeast corner of the property
11 where a free-standing sign could be erected without
12 going on top of existing infrastructure.

13 A. That's correct, on the property. It cannot
14 be located in the State Highway right-of-way. It
15 would have to be located on the property.

16 So we've looked at other locations. And
17 they just don't work without requesting additional
18 variances.

19 Q. Thank you.

20 HEARING EXAMINER: Mr. Taylor, is the
21 location of the proposed free-standing sign noted on

1 your site plan?

2 WITNESS TAYLOR: It is.

3 HEARING EXAMINER: Try to help me find
4 it, because I can't find it.

5 WITNESS TAYLOR: It's -- let me just
6 make sure it's the one on the screen. Yes, it's got
7 call out.

8 (Scrolling cursor.)

9 The arrow is pointing to the call out and
10 the sign. It says, Proposed 6-foot high
11 double-sided monument sign with 18 square foot sign
12 face.

13 Q. (By Mr. Young) Does that have number 582 in
14 darker ink closer to it?

15 A. Yeah. The call out is the darker ink on
16 the plan. The sign itself is difficult to see. But
17 the call out does point to the sign. The sign is
18 located 20 feet off the proposed right-of-way and 10
19 feet off of the existing entrance.

20 Q. Thank you.

21 MR. YOUNG: Mr. Stover, are you able to

1 zoom in on the northeast corner of the property,
2 please?

3 (Complies.)

4 MR. YOUNG: Thank you.

5 Q. (By Mr. Young) Mr. Taylor, can you
6 demonstrate where the State right-of-way ends along
7 152?

8 A. This is the property line. This is the
9 State -- also the State right-of-way. (Indicating.)

10 Q. Okay.

11 A. Like so. It continues. (Indicating.)

12 Q. And is there any space available between
13 that line and the parking lot?

14 A. No. We looked at an area here. But to
15 conform to the Code, you need 20 feet. And the sign
16 would project out into the drive aisle. Same
17 situation here. (Indicating.)

18 And once you get over here, you're going
19 down the hill. This is all wooded and not visible
20 from the highway. (Indicating.)

21 Q. (By Mr. Young) Do you have any rendering to

1 demonstrate whether the free-standing sign at the
2 proposed location would be visible from 152?

3 A. We haven't taken any photos of the
4 free-standing sign, since it was not part of this
5 question. We are showing it on the plan.

6 MR. YOUNG: No further questions.

7 HEARING EXAMINER: Let me ask, at this
8 point, does any participant have a question of Mr.
9 Taylor that has not already been asked and answered?

10 Anybody?

11 Okay, Mr. Stover, do you have any
12 follow-up?

13 MR. STOVER: Just a couple.

14 EXAMINATION BY MR. STOVER:

15 Q. Mr. Taylor, to be clear for the record, the
16 DAC plan that has been submitted is not for a
17 shopping center, is that correct?

18 A. Correct.

19 Q. And as part of the DAC approval process,
20 also part of the Code, the Applicant will be
21 required to meet any and all requirements with

1 respect to lighting?

2 A. Yes.

3 Q. That would include shielding and not
4 adversely affecting the operation of any vehicles or
5 adjacent residential lots or buildings?

6 A. That's correct.

7 Q. And Mr. Young asked you a question about
8 whether or not the sign was 3-D.

9 Would you agree it to be that the
10 projection of the sign of, I think you testified, 5
11 inches is relatively insignificant?

12 A. It is insignificant. So, obviously, a sign
13 has three dimensional qualities, but it's not, per
14 se, what I would call a 3-D sign.

15 Q. In other words, the fact that this sign is
16 going to project a little less than half a foot off
17 the building is not going to make it any more or
18 less visible.

19 A. Correct.

20 MR. STOVER: Nothing further, Mr.
21 Kahoe.

1 UNIDENTIFIED SPEAKER: I have a
2 question.

3 HEARING EXAMINER: Who said something?

4 UNIDENTIFIED SPEAKER: Sorry about
5 that. This is Cyrus Etemad-Moghadam. I have a
6 question on the signs.

7 All the pictures that you had had the sign
8 quite low.

9 HEARING EXAMINER: Hold on second.
10 Please identify yourself again, and what is your
11 address, sir?

12 MR. ETEMAD-MOGHADAM: 3004 Franklin's
13 Chance Drive, Fallston, Maryland 21047.

14 HEARING EXAMINER: Thank you.

15 MR. ETEMAD-MOGHADAM: So the question I
16 had was on all of the images, the sign was quite
17 low. I'm assuming that the sign will be quite a bit
18 higher, given the height of the building, is that
19 correct?

20 WITNESS TAYLOR: It will be located as
21 that exhibit depicts it, which would be above the

1 front entrance.

2 HEARING EXAMINER: Mr. Taylor, just
3 tell us how far above the front entrance. I'm not
4 sure everybody is familiar with the rendering.

5 Tell us how high above the ground level and
6 how high above the doorway.

7 WITNESS TAYLOR: This would be an
8 estimate, because, actually, the exhibit doesn't
9 have actual dimensions for height. But it's over
10 the doorway. It's probably 6 feet high. Plus you
11 have another 6 feet. So I would say probably 12
12 feet above ground level.

13 HEARING EXAMINER: Sir, next question.

14 MR. ETEMAD-MOGHADAM: No.

15 MS. SCHEIR: Beth Scheir.

16 My first question for Mr. Taylor is that he
17 used language relative to the other side of the
18 highway, when describing the adjacent properties.

19 Mr. Taylor, for the record, would you
20 please state the zoning designation on "the other
21 side of the highway" and make sure you are clear as

1 to whether it is the same or different zoning
2 designation?

3 WITNESS TAYLOR: Okay. The plan that I
4 have doesn't show the other side of the property.
5 So you caught me for a moment here.

6 But I believe the subject property is VB.
7 And I believe the BB&T bank, which is on the east
8 side of Baldwin Mill Road, is VB. And I believe the
9 opposite -- the properties on the opposite side of
10 152 are business zoned on either side of 165.

11 MS. SCHEIR: My understanding per your
12 comment was the other side of the highway, was
13 across 152.

14 I want to make it clear that those
15 properties are developed the way they are because
16 they are in fact B1 zoned, not Village Business
17 zoning.

18 My other point of note for Mr. Taylor would
19 be, I would like to see the photograph, the picture
20 you took of the property behind the proposed Dollar
21 General site.

1 You provided photographs of the commercial
2 property surrounding, but you failed to provide a
3 photograph of the property to the rear.

4 May we see that, please.

5 MR. STOVER: Mr. Kahoe, I will object.
6 I'm not sure I understand the question, number one.
7 Number two, the Applicants' exhibits that are in
8 evidence are what we provided as part of our case.

9 MS. SCHEIR: Okay. Then I would like
10 to make it available, for the record, that the
11 property behind, directly behind where the proposed
12 Dollar General will be is in fact a residence.

13 HEARING EXAMINER: Thank you. You will
14 have an opportunity to testify later in the hearing.

15 Do you have any other questions for Mr.
16 Taylor?

17 MS. SCHEIR: No. Those were my two
18 questions for Mr. Taylor.

19 HEARING EXAMINER: Thank you.

20 Anybody else?

21 Okay, Mr. Taylor. I think we're done with

1 you.

2 Mr. Stover?

3 MR. STOVER: That's the Applicants'
4 case, Mr. Kahoe.

5 HEARING EXAMINER: Thank you, Mr.
6 Stover.

7 At this point in the hearing, a
8 representative of the Department of Planning and
9 Zoning, David Culver, will give us the Department's
10 recommendation, which we're all interested in,
11 because there was a late modification of the
12 application, and I'm not sure -- I have not seen the
13 Department's position on the modified application.

14 Mr. Culver?

15 MR. CULVER: Thank you, Mr. Kahoe.

16 We did not get official notification of the
17 modification. So I will read the summary and
18 recommendation based off of what was submitted to
19 the Department.

20 HEARING EXAMINER: Mr. Culver, you can.
21 I have it. It's not going to really be helpful to

1 me to read that. It's based on three other
2 variances, which are not before me. It's based on a
3 wall sign, which is three times the size of the one
4 that's been requested.

5 I understand you didn't have time to do a
6 new Staff Report. But what's in the file does not
7 help me. It does not help me. It's not going to
8 help me.

9 If you need additional time to give us your
10 amended Staff Report, we're going to have to adjourn
11 to give you time to submit the report, so we all can
12 understand what the Department, which is the
13 objective observer here -- at least one of the
14 objective observers of what their intent is.

15 MR. CULVER: Mr. Kahoe, if I may, I
16 don't think --

17 HEARING EXAMINER: Who is this?

18 MR. CULVER: David Culver with Harford
19 County Planning and Zoning.

20 HEARING EXAMINER: I'm sorry, Mr.
21 Culver. Go ahead.

1 MR. CULVER: I'm sorry, Mr. Kahoe. I
2 was just going to say that the Department concluded
3 in our Staff Report that we do not find the lot to
4 be unique in shape or topography and that we do not
5 find the request to be in character with the Village
6 Business and Rural Village study without
7 architectural renderings or other information.

8 I don't think we would change our
9 recommendation on finding it to be unique in shape
10 or topography based off the wall sign being reduced
11 in size.

12 HEARING EXAMINER: Mr. Culver, I'm
13 perfectly willing to accept your opinion, if that is
14 your opinion. I don't want you to speculate as to
15 what the Department is going to do.

16 If you want to tell me what the
17 Department's opinion is based on the application as
18 you've already heard it, I think we all would like
19 to hear it.

20 But if you are unclear, uncertain what
21 Staff would say -- you are Staff, but I assume you

1 actually staff up some of these opinions, before you
2 give them to me.

3 Now, if you're uncertain, we're going to
4 have to adjourn. I have read your decision -- I
5 mean your recommended decision. I've read it. I
6 know what it is. But it's based on a different
7 presentation.

8 MR. CULVER: Again, I would be more
9 than happy to redo the Staff Report based off the
10 revised signage request.

11 However, our recommendation was based off
12 whether or not this was unique in size or shape or
13 anything else.

14 As far as the property is concerned for the
15 sign variance, I don't believe we will conclude
16 anything different than that.

17 Again, I will be more than happy to redo a
18 Staff Report at your direction based off just the
19 request for a wall sign to be 50 foot instead of the
20 150 requested.

21 HEARING EXAMINER: No. I'm not going

1 to waste time. If that's the opinion -- and I don't
2 want to split hairs. If that's the opinions of --

3 If you're confident that that would be the
4 opinion of the Staff and that is, in fact, your
5 opinion, then I will accept that, accept your
6 findings or your position that there is nothing
7 unique about the property but about the request for
8 the variance.

9 Is that a fair statement, Mr. Culver?

10 MR. CULVER: That is fair, Mr. Kahoe.

11 HEARING EXAMINER: Mr. Stover, any
12 questions of Mr. Culver.

13 MR. STOVER: Just a couple.

14 EXAMINATION BY MR. STOVER:

15 Q. Good evening, Mr. Culver.

16 So the use itself of the Dollar General
17 building, that, of course, is subject to 267-58 of
18 the Code.

19 And is it accurate that in conjunction with
20 the development process that the Applicant will be
21 required to submit architectural renderings that are

1 then reviewed by the Director of Planning for
2 conformance with the, I believe, Upper Crossroads
3 Rural Village study?

4 Is that right?

5 MR. CULVER: That's correct. The
6 Director of the Department of Planning and Zoning
7 would make the final determination of whether or not
8 it is architecturally compatible in accordance with
9 the Zoning Code and the Rural Village study.

10 Q. I have the Code in front of me, Mr. Culver.

11 But that's set forth in 267-58(E)(7). I
12 don't know if you know it off the top of your head.
13 But I will purport to you that --

14 A. I do not. But I could pull up the Code, if
15 you want me to confirm that.

16 Q. I think my question there is, is that
17 particular provision applies to the development of
18 new buildings in the VB?

19 Is that right? Is that your understanding?

20 A. The VB standard would apply to new
21 buildings or anybody who's making an application for

1 anything under that zoning classification.

2 Q. Do you know if that provision of the Code
3 also requires a review of signage for conformance of
4 the Upper Crossroads Rural Village study?

5 A. The signage section specifically spells out
6 what is required in the VB District; the one
7 free-standing sign per parcel, the wall sign and so
8 forth.

9 Q. So when the Department reviews a sign in
10 the VB District -- just the sign, not the use --
11 they would be guided by section 267-33 with respect
12 to the requirements for signage in the VB.

13 Is that accurate?

14 A. That would be accurate, yes.

15 Q. And Mr. Young asked a question of Mr.
16 Taylor that was sort of along these lines.

17 But if this property were to be developed
18 as a shopping center -- and we know it's not -- but,
19 hypothetically, the Applicant would be allowed to
20 have 10-foot signs for each user up to six uses, is
21 that correct?

1 A. I believe that is correct.

2 MR. STOVER: I don't have any further
3 questions for Mr. Culver, Mr. Kahoe.

4 HEARING EXAMINER: Mr. Goff, I don't
5 know if you're recording orally or recording audio.
6 But anybody can pull up this hearing afterwards.
7 This is all being recorded.

8 MR. GOFF: I just want to have a voice
9 in this matter, Mr. Kahoe. It seems to me like
10 everybody else is speaking but the residents in the
11 area.

12 HEARING EXAMINER: Look. Look. You're
13 holding your phone up. I just want to --

14 MR. GOFF: I'm just showing you
15 pictures of the other Dollar General store.

16 HEARING EXAMINER: I just wanted you to
17 know this is all being recorded. Anybody can pull
18 it up at any time after tonight and see what's been
19 said.

20 You will have a chance to testify. I think
21 I have made that point a couple times.

1 Mr. Young, do you have any questions of Mr.
2 Culver?

3 MR. YOUNG: I do not.

4 HEARING EXAMINER: Mr. Culver, thanks
5 very much.

6 MR. CULVER: Thank you, Mr. Kahoe.

7 HEARING EXAMINER: We'll go to the
8 Protestants' case.

9 Mr. Young?

10 MR. YOUNG: We would call Ms. Beth
11 Poggioli.

12 HEARING EXAMINER: Your address, ma'am.

13 WITNESS POGGIOLI: 2740 Greene Road,
14 Baldwin, Maryland 21013.

15 EXAMINATION BY MR. YOUNG:

16 Q. Ms. Poggioli, are you familiar with this
17 location?

18 A. Yes.

19 Q. How often have you been by there?

20 A. Several times a day.

21 Q. Okay. Thank you.

1 And are you familiar with the other
2 businesses in the area?

3 A. Yes.

4 Q. And are you familiar with the signs that
5 are at those other businesses?

6 A. Yes.

7 Q. Are there any signs at the intersection of
8 152 and 165 that you find difficult to see?

9 A. No, not at all.

10 Q. Are there any businesses there that you
11 have difficulty identifying based on the size of
12 their signs?

13 A. No, not at all.

14 Q. How many businesses are there in that area
15 of Fallston? If you know.

16 A. Quantity-wise? I can't say off the top of
17 my head. But they mainly reside at the corners of
18 152 and 165. That's the location of the businesses.

19 Q. Do you know how far it is from that
20 intersection to another business, headed south on
21 152?

1 A. It's -- headed south, there are residences
2 that were turned into commercial, so they are old
3 houses that are now commercial use; a sub shop and
4 an antique store, which are about a few hundred feet
5 away, which would be not too far -- near the
6 intersection of Scarff Road and 165, heading south.

7 Q. So is that headed down 165 or 152 that you
8 were just discussing?

9 A. 165 is the residential uses that were
10 converted to commercial.

11 Q. And those buildings are still residential
12 in appearance, is that correct?

13 A. Yes. Yes.

14 Q. Thank you.

15 And are you familiar with how far it is
16 from this location along 152, headed west?

17 A. Headed west on 152 there is not much but
18 vegetation and the volunteer fire department annex.

19 Q. Thank you.

20 MR. YOUNG: Ms. Smith, are you able to
21 pull up the exhibit that was emailed to you

1 previously this week?

2 MRS. SMITH: No, I cannot. You mean
3 pull it up from Dropbox?

4 MR. YOUNG: Are you able to put things
5 on display, like Mr. Stover just did previously this
6 evening?

7 MRS. SMITH: No, I am not.

8 Q. (By Mr. Young) Ms. Poggioli, did you
9 prepare an analysis of the distance from this
10 intersection to other businesses in the area?

11 A. Yes. Using Google Maps, I measured how far
12 in each direction. There's not any competing
13 businesses, necessarily, in each direction.

14 We could review that or --

15 Q. Yes. If you could look at what you
16 prepared headed west on 152.

17 Do you have that document in front of you?

18 A. Yes. I can't share a screen, can I?

19 Q. No. We do have that uploaded to the file.
20 And I believe Mr. Stover has a copy of it. It was
21 emailed to him as well. We can review that

1 subsequently.

2 But if you could just describe the distance
3 of what you were measuring to.

4 A. Do you want me to hold it up?

5 Q. That's fine.

6 A. My printer wasn't very good.

7 But, basically, using Google Maps, it's
8 measuring the distance from the intersection to the
9 volunteer fire department, and it's exactly --

10 Oh, it's actually just about -- almost a
11 mile. And then, after that, there's really nothing
12 but residential and just vegetation along the road.
13 That's headed west -- east. I'm sorry.

14 Q. Thank you.

15 And you also had a document headed to on
16 Hemphill's, east on Route 152, is that correct?

17 A. Yes. I'm sorry. That's east, yes.

18 Headed towards Hemphill's would be east on
19 152, and that's about 1.4 miles. That's the first
20 commercial use that's not in that intersection.

21 So there's really just large houses and

1 farms and then Hemphill's, which is 1.4 miles.

2 Q. Did you also prepare another exhibit headed
3 north on 165?

4 A. Yes. North on 165, there is all
5 residential use, until you get to about Route 23,
6 which is 3.23. And, then after, it's also
7 residential. So that's 3.23 miles.

8 MR. YOUNG: Mr. Kahoe, those are the
9 Protestants' Exhibits 1, 2, 3 and 4.

10 MR. STOVER: Mr. Kahoe, I think the
11 documents are what they are. I'm not sure they're
12 relevant to the narrow scope. But I think they are
13 what they are. So I would object on relevance.

14 HEARING EXAMINER: Google Maps may show
15 me something I haven't seen before, so I will accept
16 Protestants' Exhibits 1 through 4.

17 Q. (By Mr. Young) Ms. Poggioli, based on the
18 absence of other businesses in the vicinity, do you
19 believe that it's possible anyone would not notice
20 that the Dollar General had been constructed at this
21 location?

1 A. It would be impossible not to notice it.

2 Q. Do you believe that the size of the sign
3 would make a difference on anyone being able to
4 identify this location?

5 A. No.

6 Q. Thank you.

7 Have you reviewed the --

8 You listened to Mr. Stover's presentation
9 through Mr. Taylor this evening, is that correct?

10 A. Yes.

11 Q. Do you have any other comments in regard to
12 what you heard or what you observed in regard to the
13 application submitted?

14 A. I don't believe that there's any undue
15 hardship for having a larger sign. I don't feel
16 that anybody would be able to not locate the Dollar
17 General with signage and the size of the building.

18 Q. Thank you.

19 MR. YOUNG: I have no further
20 questions.

21 HEARING EXAMINER: Mr. Stover?

MR. STOVER: Two quick questions of Ms. Poggioli.

EXAMINATION BY MR. STOVER:

Q. First, you don't happen to know the measurements of the signs at the intersection of 152 and 165, do you?

A. The Village Business-zoned signs or the B1?

Q. Any of them.

A. Any of them?

No, I do not.

Q. Okay.

A. I do know that they are small. And the B1 catty-corner, the shopping center, does not have any. They are all on the shopping center.

Q. Would you agree that the exhibits that the Applicant entered tonight showing the sign, as it was proposed, were difficult to see?

A. I don't believe that they were accurate. It was inaccurate.

Having two people stand with a banner in the middle of a parking lot is different than having

1 a large building with a sign on it.

2 Q. That didn't really answer my question.

3 MR. STOVER: I will withdraw it. I
4 have no further questions, Mr. Kahoe.

5 HEARING EXAMINER: Thank you, ma'am.

6 Is that all of this witness?

7 MR. YOUNG: I would call Mr. Lee
8 Harris, if he is still available. Mr. Harris, could
9 you please unmute your phone?

10 Mr. Harris is on the telephone. Actually,
11 it looks like he may be -- I can't tell if he's on a
12 phone or computer.

13 Mr. Lee, can you hear us?

14 UNIDENTIFIED SPEAKER: Lee is a female,
15 and it's my next-door neighbor, actually.

16 MR. YOUNG: I apologize, Ms. Lee.

17 All right. We'll come back in a moment.
18 Hopefully, we can figure out the microphone issue.

19 Is Ms. Lynn Faulkner available?

20 MS. FAULKNER: Yes, I am. I am here.
21 I've just turned my camera on, also.

1 EXAMINATION BY MR. YOUNG:

2 Q. Can you state your full name, please?

3 A. Yes. It's Lynn Faulkner. I reside at 2126
4 Fallston Road.

5 As Beth Poggioli just mentioned, towards
6 Pleasantville --

7 HEARING EXAMINER: Hold on a second.

8 A. I live two miles.

9 HEARING EXAMINER: Hold on. Have you
10 been sworn in?

11 If there is anybody else who has not
12 previously been and who may testify, raise your
13 right hand.

14 (Witness Sworn.)

15 Q. (By Mr. Young) Say your address again,
16 please.

17 A. 2126 Fallston Road, heading south on 152 on
18 Fallston Road, approximately two miles from the
19 proposed property.

20 Q. And are you familiar with that
21 intersection?

1 A. Yes, very much so. I am fifth generation,
2 resided here on this property from ancestors. I
3 prepared a little document here, actually.

4 I've lived here; as I said, fifth
5 generation. The property used to be a small dairy
6 farm. My great grandparents used a horse and cart
7 and took milk to the Ma and Pa Railroad station for
8 transport. We also had a horse. I have vivid,
9 wonderful memories of riding a horse across the
10 farms, across Scarff Farm, Amoss Farm, Hess Farm, to
11 165, to the village business of the Wright's store,
12 where we would pick up penny candy and ride back on
13 the horse. So, yeah, I've seen a lot of changes up
14 here. I'm very familiar with the property.

15 **Q. Thank you.**

16 **And did you hear the Applicants' case**
17 **tonight regarding the proposed sign?**

18 A. Yes. And I would like to oppose it.

19 Because of the expected light pollution
20 with subsequent human health sequelae and hazards
21 and bird and insect deaths that will ensue because

1 of this exploitation have to be of the utmost
2 concern to the development of this rural area.

3 The rural view shed for which the current
4 residents pay dearly and property taxes to maintain
5 the beauty of this pleasant valley is really in
6 jeopardy.

7 Allowing this Dollar General big-box store
8 in this zone, regardless of the signage size, this
9 building and sign will have deleterious effects on
10 the Village of Upper Crossroads and Lancaster
11 Corners, where I'm from, the next little village.

12 Q. Thank you.

13 And to make sure we're clear, are you
14 saying that the light of a 50-square-foot sign would
15 be more adverse to you than the light coming from
16 the 10-foot sign that's permitted?

17 A. Definitely. It would be a disadvantage to
18 anyone that resides in this community.

19 Q. Thank you. Nothing further, Ms. Faulkner.

20 MR. STOVER: No questions.

21 Next witness.

1 MR. YOUNG: Ms. Harris, are you
2 available now?

3 MS. HARRIS: I believe so.

4 MR. YOUNG: Thank you.

5 EXAMINATION BY MR. YOUNG:

6 Q. Can you state your name and address for the
7 record, please?

8 A. Lee Harris, 2905 Fallston Road, which is
9 just west of the location we're talking about.

10 Q. Ms Harris, were you sworn in previously?

11 A. Yes, I was.

12 Q. Thank you.

13 And did you hear Mr. Stover's and Mr.
14 Taylor's case and presentation tonight?

15 A. Yes, I have.

16 Q. And what is your opinion of the request to
17 have a 50-square-foot sign as opposed to a
18 10-square-foot sign as permitted?

19 A. I see no reason for it at all because a
20 sign that is illuminated is much more visible than
21 one that's just printed, for one thing.

1 And the bright -- this sign that the Dollar
2 General uses is a bright yellow. And when that's
3 illuminated, it is very offensive. And I would not
4 like to see that happen to our rural area.

5 Q. Thank you.

6 Do you have anything else you want to say
7 in regard to the application?

8 A. Well, I've lived there for a long time,
9 too, when the bank was built. And I know that they
10 had special requirements there in order to build
11 there at all, which included having to
12 environmentally blend in with the other residents
13 next to it, which resulted in the bank being built
14 from stone.

15 And I've traveled around, even in Bel Air,
16 which is a business area, and there's very few
17 signs, if any, that large and that bright, even in
18 Bel Air. And they are certainly not in Fallston.

19 The shopping center, they have their signs
20 on the building, and then the small sign blends with
21 the environment. It's not glaring, like the yellow

1 sign would be. So I see no reason whatsoever for
2 that to be increased in size.

3 Q. Thank you.

4 MR. YOUNG: No further questions of Ms.
5 Harris.

6 HEARING EXAMINER: Mr. Stover?

7 MR. STOVER: Mr. Kahoe, no questions.

8 If I could -- I don't want to interrupt
9 anybody else, frankly. If I could just make a
10 blanket objection to any testimony that goes beyond
11 the scope of tonight's hearing, which is the sign on
12 the building.

13 If I could just make that blanket objection
14 now, as opposed to making it, if it comes up during
15 individual's testimony.

16 HEARING EXAMINER: Continuing objection
17 is noted.

18 Mr. Young, your next witness.

19 MR. YOUNG: I call Mr. Langrall.

20 Are you available? You came off mute for
21 second.

1 MR. LANGRALL: I had sent you an email,
2 which, obviously, you didn't read, because it was
3 just before the hearing, that, I think, what Beth
4 Poggioli had stated was --

5 EXAMINATION BY MR. YOUNG:

6 Q. State your name for the record, please.

7 A. Clarke Langrall, 2622 Greene Road.

8 Q. Mr. Langrall, what were you saying?

9 A. I sent you an email just before the hearing
10 to tell you that what had been captured by Beth
11 Poggioli was sufficient and expressed my same
12 sentiments and feeling.

13 Q. Do you have anything you would like to add
14 at this time?

15 A. No, other than the fact that the signage in
16 the rest of the VB area on the south side of 152 and
17 165, there's no signage that exceeds more than the
18 smaller signage version that has been discussed with
19 the Dollar General sign.

20 I also concur with the illumination
21 comments that were made as well. It would be a

1 detriment to the community and an eyesore.

2 Q. Thank you.

3 MR. YOUNG: No further questions.

4 HEARING EXAMINER: Mr. Stover?

5 MR. STOVER: No questions.

6 HEARING EXAMINER: Thank you, Mr.

7 Langrall.

8 Next witness.

9 MR. YOUNG: I call Mr. Cyrus

10 Etemad-Moghadam.

11 MR. ETEMAD-MOGHADAM: I'm right here.

12 EXAMINATION BY MR. YOUNG:

13 Q. Good evening, sir. Thank you for asking
14 questions earlier.

15 Did you have anything that you want to say
16 in regard to this application at this time?

17 A. Yeah, I do. Just quickly, I think that
18 we're all on the same page in terms of things like
19 the fact that the property is unique. So it's
20 understood. And I'm sure it's not ideal for the
21 business.

1 But the reality is, this is going to be a
2 very large building, actually, the largest building
3 in the area, nothing close to it.

4 And so the concept that the lack of a sign
5 would be a deterrent would be, I believe, incorrect.
6 I think it's really applicable here.

7 I do believe that a large yellow sign would
8 be offensive. I don't think that we should have to
9 deal with something like this already, given the
10 fact that there are no other large signs in the
11 area, even on the other side of the road, which is
12 in the business section.

13 And the last comment really is that in 2021
14 everybody is using mapping applications. So we are
15 in a rural area. People who are looking
16 specifically for a Dollar store, if it's built, will
17 have the ability to get to it with simple mapping.

18 The sign will be pretty tall, at least 12
19 feet in my opinion, and I think the typical
20 doorjams are 7-feet tall to start with. So I don't
21 believe that there's a need for basically a New

1 York-style sign in the area.

2 Q. Thank you.

3 MR. YOUNG: No further questions.

4 HEARING EXAMINER: Cross? Mr. Stover?

5 MR. STOVER: Sorry. It might help, if
6 I unmute myself.

7 No cross.

8 HEARING EXAMINER: Thank you.

9 MR. YOUNG: I call Ms. Beth Scheir.

10 MS. SCHEIR: Yes.

11 EXAMINATION BY MR. YOUNG:

12 Q. Did you have anything you wanted to say in
13 testimony tonight?

14 A. Yes, please.

15 As it relates to the signage --

16 Q. Could you say your name again, just for the
17 record, please?

18 A. Beth Scheir, S-C-H-E-I-R, 2814 Cross
19 Country Court, Fallston, Maryland 21047.

20 Q. Thank you.

21 And you had the opportunity to hear the

1 Applicants' case tonight?

2 A. I have.

3 Q. In fact, you asked a couple questions as
4 well?

5 A. Yes, sir.

6 Q. Thank you.

7 I think the last question that you asked
8 started to become a point that you wanted to make.

9 Could you tell the court what that was?

10 A. The last question that I asked was relevant
11 to the photographs that Mr. Taylor offered during
12 his testimony about surrounding properties and what
13 existed on them.

14 He included property all that included
15 commercial uses. He failed to include a photograph
16 directly to the rear of the parcel that would
17 include the Dollar General. That property is, in
18 fact, residential.

19 The topography at the back of this lot, if
20 you look at the "topo" lines on the drawing, it is a
21 severe grade directly down there.

1 And the proposed free-standing sign, which
2 supposedly can only be where it is going to be
3 located because of the State right-of-way in the
4 front would be directly adjacent Village Business
5 uses and residential properties along Scarff Road,
6 in my opinion. I haven't done any measuring.

7 Q. Okay. Thank you.

8 Did you have anything else you wanted to
9 say in regard to the application?

10 A. Yes, sir. The Village Business-zoned area
11 is exceptional. It is exceptional. It is
12 exceptional for a reason. It is unique. That's Mr.
13 Taylor's word. It is unique. It is meant to be
14 unique. It is zoned to be unique. The site is
15 surrounded by businesses and residences, small
16 businesses.

17 This is a relatively wide-open
18 intersection. There's nothing to impact the sight
19 line to the front of a 9,100 square foot rectangular
20 building at all, nothing.

21 There is no need for any signage larger

1 than what is allowed by Village Business zoning,
2 including but not limited to the size, the color,
3 the materials from which it is made and the location
4 of the sign.

5 Q. Thank you very much.

6 MR. YOUNG: No further questions.

7 HEARING EXAMINER: Mr. Stover?

8 MR. STOVER: No questions.

9 HEARING EXAMINER: Thank you, Ms.

10 Scheir. Next witness.

11 MR. YOUNG: Ms. Comeau, I see that you
12 are here. Did you have any anything you wanted to
13 say tonight?

14 MS. COMEAU: No, thank you. No
15 comment.

16 MR. YOUNG: Thank you.

17 Did anyone else who signed up to testify in
18 advance have anything they wanted to say in
19 testimony, who signed up in advance?

20 Ms. Flasch, I'm sorry, you did speak with
21 me.

I call Ms. Stephanie Flasch.

MS. FLASCH: Hi. Stephanie Flasch.
F-L-A-S-C-H, and I'm at 1902 Norwood Court. That's
Fallston.

A. I just wanted to comment that I oppose any
sign variance for the Fallston Village Business
area.

I moved into the area for the rural
character, and I frequently go to Upper Crossroads
area for Basta Pasta, Savory, Courtland's, Fallston
Cleaners and other businesses to support those local
businesses in my community.

I know these businesses are located there,
and I don't have a problem seeing any of the
businesses in the area, when I travel 152 or 165.

And I oppose the sign variance proposed for
the Dollar General in order to preserve the rural
integrity of our community.

Q. Thank you.

MR. YOUNG: Nothing further.

MR. STOVER: No cross.

1 HEARING EXAMINER: Thank you for your
2 testimony.

3 MR. YOUNG: Does anyone else who signed
4 up to testify in advance still desire to testify?

5 All right.

6 Mr. Goff, I know that you were interested
7 in testifying tonight. Are you still here?

8 MR. GOFF: Yes, I am. And I live at
9 2901 Fallston Road.

10 EXAMINATION BY MR. YOUNG:

11 Q. Can you state your full name, for the
12 record, please?

13 A. Excuse me?

14 Q. Your full name.

15 A. Jonathan Goff.

16 Q. How is Jonathan spelled?

17 A. How is it spelled?

18 Q. Jonathan; yes.

19 A. Yeah. G-O-F-F. Jonathan; J-O-N-A-T-H-A-N.

20 Q. Thank you.

21 You've been very expressive many times.

1 **What do you have to say?**

2 A. I know you're worried about my language.
3 But the thing is that I oppose this sign variance
4 because of what everybody else has already said
5 already, as far as the rural integrity of the
6 properties in the area around it.

7 I've been shown pictures of other Dollar
8 General stores. And I don't know if you can see
9 this or not. But this is the trash that's been left
10 at the other Dollar General stores. And that's not
11 what our community is all about. We're not into
12 trashing up the area with some business who wants to
13 walk in here and do whatever they want, once they
14 get established.

15 And so on top of that, what I'm not seeing
16 is pictures of all the traffic that you've provided
17 for us. The traffic is heavy on that intersection.
18 That entrance to that Dollar General store is going
19 to cause so many accidents.

20 There's schools on this road. I think we
21 have four elementary schools or four schools on that

1 152, I'm looking at.

2 Also, I was looking at the bright-colored
3 yellow light illuminated that's going to bring in
4 stink bugs. And stink bugs are attracted to the
5 yellow lights. And that yellow light is going to
6 bring all the stink bugs in this region, in this
7 whole area.

8 And on top of that, this is also going to
9 affect our property values. I haven't seen a Dollar
10 General store yet that has been kept nice and neat
11 and clean. And I've been around the country. And
12 I've not seen not one Dollar General that's been a
13 clean store. And that's not what this area is
14 about.

15 We pay big property taxes in this region,
16 and we don't appreciate this. This, to me, is just
17 not good for our area. Everybody I've talked to
18 opposes this Dollar General store from even going
19 up.

20 As far as the parking, the parking --
21 you've got the parking almost right on the side of

1 the road at the entrance. And that's going to
2 affect people backing up and lights and cars
3 flipping around to get back out of the store.

4 The lights are going to be shining right
5 directly in the faces of the cars that are at the
6 intersections. That's going to cause accidents.

7 I'm really worried about, you know, the
8 safety of that intersection, because we've had so
9 many accidents. I've had so many cars and trucks
10 and vans land on my property, you know, just because
11 of this intersection as it is now. Once they put
12 that -- if they put that store in, it's going to be
13 cause even more accidents, you know.

14 And then we're all on well water. What's
15 going to happen with an 18-wheeler loaded with some
16 chemical? You know, there's already been an
17 incident there way back in the history that the
18 Harford County Health Department doesn't want to
19 talk about.

20 You know, we had to deal with Exxon. You
21 know, we lived off of bottled water for a year and a

1 half because of the Exxon leak at that intersection.
2 They had to put special filters, you know, on all of
3 our homes in the area.

4 You know, we've dealt with a lot of, you
5 know, problems out of that particular lot and the
6 stores and the businesses that have been at that
7 lot. So, you know, I think everybody --

8 And have you seen all the signs in the
9 area? I mean, everybody in the whole community,
10 they have signs. We don't want this Dollar General.
11 They oppose the Dollar General store from even going
12 in.

13 So I would like to speak with Mr. Young, if
14 he's representing the community, you know. If you
15 could give me a call later on to discuss this
16 further.

17 But, like I said, everybody in this area is
18 really upset about this Dollar General store. They
19 don't want it. Everybody I talk to says they don't
20 want this store to go in. They don't have a good
21 reputation, from what I've seen.

1 Q. Thank you, Mr. Goff.

2 A. All right.

3 Q. Thank you.

4 MR. YOUNG: Nothing further of this
5 witness.

6 MR. STOVER: No questions.

7 HEARING EXAMINER: Mr. Goff, thank you
8 for your testimony.

9 MR. GOFF: You're welcome. Thank you.

10 MR. YOUNG: Mr. Jonathan Gunter? Mr.
11 Gunter?

12 MR. GUNTER: Yes, I'm here.

13 EXAMINATION BY MR. YOUNG:

14 Q. Could you state your name and address, for
15 the record, please?

16 A. Jonathan Gunter, G-U-N-T-E-R, 1201 Wild
17 Orchid Drive, Fallston, Maryland 21047.

18 Q. Thank you, Mr. Gunter. You don't have an
19 opportunity to ask questions at this time. But you
20 do have an opportunity to testify in response to
21 this application.

1 A. So listening to the proposal from Mr.
2 Stover and Mr. Taylor with the pictures of how the
3 signage would look, from what I heard was they took
4 a white banner out to the property, stood there,
5 took the picture, went back to their office and
6 photo shopped the Dollar General logo onto that
7 piece of paper. That is manipulation of a photo.

8 If you know anything about the Photoshop,
9 you can make anything look very fuzzy. When you
10 shrink a logo down in size, the resolution becomes
11 fuzzy by itself. That's in general. I work with
12 dealing with that kind of work myself.

13 When you try to make it larger, it can make
14 it look a lot brighter, a lot bigger. And you go,
15 Oh, it's very nice. So that was my concern; is they
16 photoshopped onto a picture.

17 So, in my opinion, they manipulated a photo
18 that was put into evidence instead of actually
19 taking a picture of a sign that was made, held up so
20 it looked actual. That's my basic concern.

21 I'm not a fan of Dollar General. But I'm

1 going to speak to the variance of it. All of the
2 other signs up there don't need to be that big.
3 They are not that big. Everybody can see the signs
4 from the road.

5 However, my biggest concern was listening
6 to their testimony, where they manipulated the
7 picture and multiple manipulated pictures by using
8 Photoshop to put their logo onto that white banner
9 that they said was only a white banner they took out
10 there and put their logo on there by Photoshop. So
11 it's a manipulation of the image.

12 Q. Thank you.

13 MR. YOUNG: No further questions of
14 this witness.

15 HEARING EXAMINER: Mr. Stover?

16 MR. STOVER: No cross.

17 HEARING EXAMINER: Thank you, Mr.
18 Gunter.

19 MR. YOUNG: Is there anyone else who
20 hasn't had the opportunity to testify now that would
21 like to do so?

(Unresponsive.)

MR. YOUNG: Mr. Kahoe, I would like to note that there are a large number of people that are present, approximately half of the people, I believe, who were here and testified. I believe the other half likely are here in opposition. I would like it noted that they -- I see some nodding heads -- join in the opposition for similar reasons that were said. And I do see Ms. Medvetz's -- sorry if I messed that up -- hand raised.

Christine Medvetz, would you like to testify?

MS. MEDVETZ: Yeah. And I didn't swear in. I'm sorry.

(Witness Medvetz Sworn.)

MS. METVETZ: My name is Christine, C-H-R-I-S-T-I-N-E, last name is Medvetz, M-E-D-V-E-T-Z. I'm at 2406 Trinity Place, Fallston.

EXAMINATION BY MR. YOUNG:

Q. Thank you.

A. I just have a question with regards to the

1 pictures that they are showing.

2 With the pictures that they showed, the
3 property across the street, Savory Deli, and the
4 pictures across the street where the Basta Pasta is,
5 the hardware store, I'm not understanding how they
6 can compare their sign to any of those, in that
7 those are different zoning places.

8 A Village Business zone should not be
9 compared to those businesses because it's not the
10 same thing. They are zoned B1, and they are being
11 proposed as Village Business.

12 That's all I have to say.

13 **Q. Thank you.**

14 MR. YOUNG: Nothing further.

15 I want to say thank you to everyone who
16 came out tonight. Mr. Kahoe, we don't have any
17 further witnesses.

18 HEARING EXAMINER: Mr. Young, are you
19 able to read into the record the names of people who
20 were here and oppose and who have not, otherwise,
21 identified themselves? I want to make sure

1 everybody is noted.

2 MR. YOUNG: Yes, Your Honor. Zonda
3 Landis, Jeff Devack, Rose Wilcox, Linda Ziskind,
4 Patrick Neary, Ryan Manaeear, Chris Richardson and
5 Christina Straub. I'm sure I still managed to mess
6 one of those up.

7 But I think all the people who said your
8 own names, that were more difficult to pronounce
9 than what I just read.

10 Those were all signed up in opposition,
11 Mr. Kahoe.

12 HEARING EXAMINER: Thank you, Mr.
13 Young. I've seen a whole series of windows coming
14 through of people who were noting their opposition.

15 I don't know if those folks can hear me. I
16 guess they can. That's not part of the record. So
17 you need to indicate verbally or at the very least
18 send an email to Mrs. Smith at her office. Just
19 state who you are and that you are opposed after the
20 hearing.

21 You should be identifying yourselves during

1 the hearing. Just being here tonight is not
2 sufficient. We need to get something on the record
3 that you are opposed.

4 Yes?

5 MR. STRAUB: This is Josh Straub, 2342
6 Willow Vale Drive in Fallston. I absolutely oppose
7 --

8 UNIDENTIFIED SPEAKER: Can we just
9 state that now, if we didn't talk yet?

10 MR. YOUNG: Hold on one moment. Mr.
11 Straub first.

12 MR. STRAUB: Sure. I would just argue
13 that the argument for necessity for the variance of
14 the sign would mean that passerbys are going to
15 frequent a Dollar General.

16 I would argue that people who are going to
17 Dollar General are conscientiously traveling to
18 Dollar General. And if they're driving down 152 or
19 165 and they need a snack, they can stop at Savory
20 Deli or 7-Eleven. So signage is only -- would need
21 a business that people aren't, you know, going to

1 intentionally.

2 MR. YOUNG: Mr. Kahoe, there are
3 additional people who are in the chat at present
4 today that I didn't have ahead of time. I will add
5 their names.

6 Mr. Ryan Shaw --

7 MR. COLLINS: Robert Collins.

8 MR. YOUNG: Robert Collins. Barry
9 Gabler.

10 UNIDENTIFIED SPEAKER: Completely
11 opposed. Completely opposed.

12 (Reporter clarification.)

13 MR. COLLINS: Robert Collins.

14 HEARING EXAMINER: Give us your
15 address, sir.

16 MR. COLLINS: 2666 Baldwin Mill Road,
17 Baldwin, Maryland 21013. Less than a mile from this
18 proposed site.

19 I've spoken with several people, emailed
20 everyone in the Harford County Government. Everyone
21 points fingers saying that they were just following

1 the letter of the law, allowing this to happen.

2 So all I'm asking is to follow the letter
3 of the law, when it comes to these variances. And
4 that's it. They shouldn't be allowed to get a step
5 up on the local businesses. That's not fair.

6 As far as being able to see that sign, I
7 was able to see that sign real easy that you guys
8 had holding up. There was no problem at all.

9 I am completely opposed to this. It
10 shouldn't be going in.

11 MR. YOUNG: Chris Richardson, do you
12 have anything to say other than that you're opposed
13 and agree with what's been said previously?

14 MR. RICHARDSON: I just want to voice
15 my --

16 Well, this is Chris Richardson, 2403 Derby
17 Drive, Fallston, Maryland.

18 I just wanted to voice my opposition to
19 this zoning variance request. They selected the
20 property. The property has its characteristics.
21 And the zoning is the zoning, which they were well

1 aware of.

2 I don't see any reason why this zoning
3 variance request should be granted.

4 MR. YOUNG: Thank you.

5 Ms. Jen Schauman. Ms. Tana Hope.

6 MS. HOPE: This is Tana Hope.

7 MR. YOUNG: Hi, Ms. Hope. Did you want
8 to say anything other than that you agree with the
9 previous Protestants would have testified?

10 MS. HOPE: Nothing further. I just am
11 completely opposed to the sign variance.

12 MR. YOUNG: Thank you, Ms. Hope.

13 MS. HOPE: Yes.

14 MR. YOUNG: And I believe that's
15 everyone that commented on the chat as well, Mr.
16 Kahoe.

17 Thank you.

18 HEARING EXAMINER: Ms. Schummer, your
19 mic is on. Do you want to say something?

20 UNIDENTIFIED SPEAKER: Go ahead.

21 MS. SCHUMMER: My name is Liz Schummer.

1 I am at 3004 Suffolk Lane. And I just wanted to
2 confirm my opposition along with all the others this
3 evening, officially. Thank you.

4 HEARING EXAMINER: Okay. Thank you.

5 UNIDENTIFIED SPEAKER: I just want to
6 confirm mine, too.

7 (Reporter clarification.)

8 HEARING EXAMINER: Sorry. Who is this?

9 MS. McCARTHY: Michelle McCarthy.
10 M-C-C-A-R-T-H-Y, 2719 Park Heights Drive, Baldwin,
11 Maryland 21013. And I am completely opposed to the
12 additional size of the sign.

13 HEARING EXAMINER: Thank you, ma'am.

14 MR. GABLER: Last one. Barry Gabler;
15 B-A-R-R-Y. Last name Gabler; G-A-B-L-E-R. I'm at
16 2825 Glen Keld Court. I also oppose the variance of
17 the sign because of the Village Business zoning, as
18 folks have previously stated.

19 HEARING EXAMINER: Thank you, sir.

20 UNIDENTIFIED SPEAKER: Excuse me. Do
21 you need my address? This is Tana Hope.

1 HEARING EXAMINER: Yes, you should give
2 us your address.

3 MS. HOPE: It is 2243 Engel Road.
4 Engle is E-N-G-L-E. That's in Fallston 21047.

5 MR. YOUNG: Mr. Kahoe, Carol Knickman
6 and Ms. Denise Brant have also expressed opposition
7 in the chat. That is all the Protestants, I
8 believe, that we have this evening.

9 Thank you.

10 HEARING EXAMINER: Okay, Mr. Young.
11 Thank you.

12 Mr. Stover, is there anything in conclusion
13 from you?

14 MR. STOVER: I was going to ask two or
15 three questions of Mr. Taylor with respect to the
16 lighting issue, if I may.

17 HEARING EXAMINER: Go ahead.
18 EXAMINATION BY MR. STOVER:

19 Q. Mr. Taylor, you heard the testimony
20 regarding concerns about lighting from the expanded
21 sign.

1 Again, for clarity of the record, how far
2 off of the street of 152, will the sign be located?

3 A. The sign would be 190 feet off the edge of
4 the road which, if you think about it, is about
5 two-thirds the length of a football field.

6 HEARING EXAMINER: Thanks, Mr. Taylor.
7 We got that. Go ahead, Mr. Stover. Next question.

8 Q. (By Mr. Stover) Mr. Taylor, you did testify
9 previously that, in your opinion, there would not be
10 any adverse impacts on noise, light, dust, glare.

11 Is that because the building is so far off,
12 like you said, two-thirds of a football field off of
13 Maryland Route 152?

14 A. That's correct. That's my opinion.

15 Q. And, finally, to tie it up, again, the
16 Applicant will be required to submit a lighting plan
17 going through the DAC process?

18 A. Yes.

19 MR. STOVER: No further questions,
20 Mr. Kahoe.

21 HEARING EXAMINER: Thanks, Mr. Stover.

1 I assume there's nothing from you, Mr. Young?

2 MR. YOUNG: No.

3 HEARING EXAMINER: Okay, folks, that's
4 going to conclude the hearing.

5 So let me tell you where we're going to go
6 from here. First of all, make sure that Mrs. Smith
7 has everyone's emails. Hopefully, she has most
8 emails. But she doesn't know necessarily who you
9 are by looking at the screen. She is responsible
10 for sending out my recommended decision. So make
11 sure she has your email. When the decision is made
12 and it final, everybody will get a copy of that
13 decision.

14 No, that's important because the appeal
15 time is supposed to run from that decision. So if
16 anyone who participated in the hearing tonight and
17 whose address we have, will have a right to ask the
18 County Council to review my decision, if you're not
19 happy with it. And this, of course, goes for the
20 Applicant as well.

21 What I will be preparing is what's called a

1 recommended decision. If recommended, it becomes
2 final, if it is not appealed to and changed by the
3 Council.

4 So if it is appealed, the Council has a
5 right to and will review the record, which is what
6 we are making tonight. There will be no new
7 testimony, no new evidence.

8 Harford County Council will review the
9 testimony and decide if my recommendation and
10 decision is right, wrong or indifferent.

11 So that's the process we're going to engage
12 in. So make sure Mrs. Smith has your contact
13 information.

14 Now, counsel, what's your preference? Does
15 anybody want to submit a written brief for argument?
16 I'm not necessarily asking for it. I guess, Mr.
17 Stover, how do you feel about that?

18 MR. STOVER: I would not be opposed to
19 that. I know I rattled off a lot of codes and
20 different provisions during both my opening and
21 during cross of Mr. Culver. I promise it will five

1 pages or less. But I would like the opportunity to
2 do that.

3 HEARING EXAMINER: It might be a good
4 idea, if you did that.

5 How long do you need to submit something in
6 writing?

7 MR. STOVER: Ten days.

8 HEARING EXAMINER: Ten days.

9 And, Mr. Young, we'll let you respond.
10 That's our rule, right? Now we have a new rule on
11 that, right? You will have ten days to respond --

12 MR. YOUNG: Thank you.

13 HEARING EXAMINER: -- to Mr. Stover's
14 brief with your comments.

15 Okay. Questions?

16 (Unresponsive.)

17 All right. Thank you, everybody, for
18 sharing with us this evening. Stay safe and good
19 night.

20 (Whereupon the hearing was concluded at
21 8:18 p.m.)

CERTIFICATE

STATE OF MARYLAND

County OF BALTIMORE, to wit:

I, Ann M. Lavoie, a Notary Public of the State of Maryland, County of Baltimore, do hereby certify that the remote hearing was held according to law.

I further certify that the hearing was recorded stenographically by me and this transcript is a true record of the proceedings.

I further certify that I am not of counsel to any of the parties, nor in any way interested in the outcome of this action.

As witness my hand and notarial seal this 30th day of May, 2021.

A handwritten signature in cursive script that reads "Ann Lavoie". The signature is written in black ink and is positioned above the printed name and title of the notary.

Ann M. Lavoie
Notary Public

My Commission Expires:
October 17, 2021

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