

**ST. MARY'S COUNTY BOARD OF APPEALS**

In the Matter of Mayjack, Inc.

Case No. VAAP #17-131-033

**ORDER**

Mayjack, Inc. filed an application for a variance from the regulations of the St. Mary's County Comprehensive Zoning Ordinance (hereinafter the "Ordinance") regarding a proposed used car dealership (hereinafter the "Property"). The Application requests a variance from Section 63.3 of the St. Mary's County Comprehensive Zoning Ordinance, as amended, (the "Ordinance"), to reduce the required buffer yard along the Property's frontage with Maryland Route 235 (Three Notch Road).

After due notice, a public hearing was conducted at 6:30 p.m. on February 8, 2018, at the St. Mary's County Governmental Center at 41770 Baldrige Street, Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn, documentary evidence was received, and the proceedings were recorded electronically.

**Legal Standard**

The Board shall not vary the regulations of the Ordinance unless it finds, based on the evidence, that:

1. Because of particular physical surroundings such as exceptional narrowness, shallowness size, shape or topographical conditions of the property involved, strict enforcement of the Ordinance will result in practical difficulty.
2. The conditions creating the difficulty are not applicable, generally, to other properties within the same zoning classification.
3. The purpose of the variance is not based exclusively upon reasons of convenience, profit or caprice; provided, any development necessarily increases property value, and that alone shall not constitute a finding of an exclusive reason.
4. The alleged difficulty has not been created by the property owner or the owner's predecessors in title.
5. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood and the character of the district will not be changed by the variance.
6. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

7. The variance complies, as nearly as possible, with the spirit, intent, and purpose of the Comprehensive Plan.

#### FINDINGS OF FACT

The Property is located in the Lexington Park Development District. It is a narrow strip of land, rectangular in shape, with 328.74 feet of frontage along Maryland Route 235. The Property contains a concrete slab, but no structures.

The Applicant plans to use the Property as an additional display area for the used car division of the nearby Toyota Car Dealership. A car dealership is classified as a commercial use, Use Type 75 - Auto Sales or Service, Vehicles, in accordance with Schedule 50.4 of the Ordinance. Use Type 75 is described in Schedule 50.4 as "Establishments engaged in the retail sale of new or used vehicles of all types – cars, trucks, recreational vehicles, motorcycles, ATV, bicycles, boats, watercraft, and outboard motors. They may have showrooms or open lots for selling vehicles, may provide repair and maintenance services and may sell related parts, accessories, and equipment. This use is considered a high intensity use for determining buffer requirements.

Pursuant to Schedule 63.3.b of the Ordinance, a high intensity commercial use proposed adjacent to a public right-of-way with a road classification of major collector or higher requires a Type B buffer. A Type B buffer is 65 feet in depth and contains 4 canopy trees, 5 understory trees, 22 shrubs, and 11 evergreens / conifers planted every 100 feet along the property line.

The Applicant requests a variance to reduce the 65-foot Type B buffer to a 17.5-foot Type A buffer. Pursuant to Schedule 63.3.a of the Ordinance, A Type A buffer is 15 feet in depth and contains 2 canopy trees, 4 understory trees, and 10 shrubs planted every 100 feet along the property line.

The proposed project was reviewed by the Technical Evaluation Committee (TEC) during its November 2017 review cycle. The project was reviewed as a minor site plan because no structures were proposed. Therefore, the project did not require review and approval by the Planning Commission.

#### CONCLUSIONS OF LAW

The Property fronts a State Road and is exceptionally narrow. The Comprehensive Plan encourages growth and development in the development districts and the Property is located in the Lexington Park Development District.

#### DECISION

**NOW, THEREFORE, BE IT ORDERED**, that, having made a finding that the standards for variance and the objectives of Section 63.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, the following variance is **granted**:

In the Matter of Mayjack Inc.  
Case No. VAAP #17-131-033

(1) Variance to reduce the required 65-foot B type buffer to a 15 foot type A buffer along the Property's frontage with Maryland Route 235;

This Date: April 12, 2018

This Date: April 12, 2018

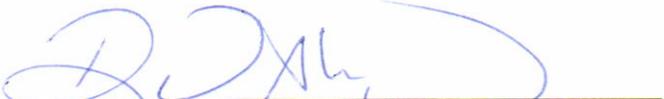
  
George Allan Hayden  
Chairman

Those voting in favor of the request:

Mr. Hayden, Mr. Brown, Mr. Greene, Mr. Miedzinski and Ms. Delahay

Those voting against the requested variance:

Approved as to form and legal sufficiency:

  
David A. Weiskopf, Acting County Attorney