

Case No: DDS 526

Applicant: WAWA, Inc.

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,
SITTING AS THE DISTRICT COUNCIL

ORDER REVERSING PLANNING BOARD DECISION

IT IS HEREBY ORDERED that the Planning Board's decision in Resolution PGCPB No. 02-33, to approve a departure of 38 feet from the required 50-foot setback for an access driveway on property described as 2.71 acres of land in the C-S-C Zone, in the southwest quadrant of Allentown Road and Branch Avenue, known as 6022 Branch Avenue, is hereby:

REVERSED, based on consideration of the entire record, for the following reasons, which are hereby adopted as the findings of fact and conclusions of law of the District Council.

1. The proposed development, a gas station and food store at the intersection of Branch Avenue and Allentown Road, was denied in S.E. 4436, VSE 4436/01, and AC-01037, where the District Council denied the applicant's special exception, variance, and alternative compliance requests. This departure application, DDS 526, cannot be approved after denial of the other applications, on which this one depends.

2. Neither applicant nor staff showed that the substantial departure requested here, over 75% of the setback requirement, meets the standards of §§ 27-239.01 and 27-587.

3. Section 27-579 (b) of the Zoning Ordinance requires a 50-foot setback for an access driveway serving a loading space or loading area, where the driveway is on land adjoining residentially zoned property. The purpose of this requirement is to provide spacing between residential properties and loading space driveways, which will have truck traffic, in and out during

the day, and may have adverse noise or visual effects on neighboring properties. This departure request is not supported by a showing that the purposes of the setback requirement are satisfied, when 38 of the required 50 feet of setback will be waived.

4. The justifications proffered for the departure are that the driveway should be located near the adjacent R-R property, to improve safety and visibility, and that the departure is harmless and has no adverse effects. But the Council has determined that this site is not appropriate for a gas station, a high traffic-generating use which the applicant did not show to be “necessary to the public,” as § 27-358 (d) requires. A use which causes less in-and-out vehicular traffic would be far safer at this location, and it might not require a 75% departure from the setback requirement.

5. This is a substantial departure from the requirements, to waive 38 of the required 50 feet of setback, but neither applicant nor staff has demonstrated that the requested departure is the minimum necessary for the driveway or that the subject property is unique in its neighborhood. This property is not so different from others in the neighborhood that the applicant should be allowed a waiver from a requirement that applies to all others. And neither staff nor applicant has shown that a waiver of 38 feet is required and that a lesser waiver cannot meet alleged special circumstances on the site.

6. Moreover, the proposed gas station and food store represents an overly intense use of the subject property. Because the applicant demands so much from the property, as to building size and location, parking areas, and driveways, it needs not only a departure from setback

requirements but also approval of a variance and alternative compliance from Landscape Manual requirements. The District Council agrees with the opposition that all requests, for the departure from design standards, the variance (from school setback requirements), and the alternative compliance, should be denied.

ORDERED this 6th day of October, 2003, by the following vote:

In Favor: Council Members Shapiro, Bland, Dean, Harrington, Knotts and Peters

Opposed: Council Member Hendershot

Abstained:

Absent: Council Members Dernoga and Exum

Vote: 6-1

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE'S COUNTY
MARYLAND

BY: _____
Peter A. Shapiro, Chair

ATTEST:

Redis C. Floyd
Clerk of the Council