

BOARD OF APPEALS

March 19, 2025

County Administration Building, 100 W. Washington St., Meeting Room 2000, Hagerstown, at 6:00 p.m.

AGENDA

AP2025-003: An appeal was filed by 142 144 Harvard Road LLC for a variance to convert the two-family dwelling into semi-detached dwellings for future subdivision. Variance from the required lot area of 5,000 sq. ft. to 4,500 sq. ft. and lot width requirements of 35 ft. to 25 ft. for both lots. For 142 Harvard Road: Variance from the required 10 ft. side yard setback to 4.98 ft. For 144 Harvard Road: Variance from the required 10 ft. side yard setback to 5.08 ft. on property owned by the appelland and located at 142&144 Harvard Road, Hagerstown, Zoned Residential Urban.

AP2022-021: A hearing for the Board to take further action pursuant to the decision of the Circuit Court for Washington County in Case No. C-21-CV-22-000424, which reversed and remanded the Board's decision.

CLOSED SESSION: *Discussion of annual report*

Pursuant to the Maryland Open Meetings Law, notice is hereby given that the deliberations of the Board of Zoning Appeals are open to the public. Furthermore, the Board, at its discretion, may render a decision as to some or all of the cases at the hearing described above or at a subsequent hearing, the date and time of which will be announced prior to the conclusion of the public hearing. Individuals requiring special accommodations are requested to contact Katie Rathvon at 240-313-2464 Voice, 240-313-2130 Voice/TDD no later than March 10, 2025. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

The Board of Appeals reserves the right to vary the order in which the cases are called. Please take note of the Amended Rules of Procedure (Adopted July 5, 2006), Public Hearing, Section 4(d) which states:

Applicants shall have ten (10) minutes in which to present their request and may, upon request to and permission of the Board, receive an additional twenty (20) minutes for their presentation. Following the Applicant's case in chief, other individuals may receive three (3) minutes to testify, except in the circumstance where an individual is representing a group, in which case said individual shall be given eight (8) minutes to testify.

Those Applicants requesting the additional twenty (20) minutes shall have their case automatically moved to the end of the docket.

For extraordinary cause, the Board may extend any time period set forth herein, or otherwise modify or suspend these Rules, to uphold the spirit of the Ordinance and to do substantial justice.

Tracie Felker, Chairman

Board of Zoning Appeals



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

ZONING APPEAL

Property Owner: 142 144 Harvard Road LLC
c/o John Henson
14032 Fairview Road
Clear Spring MD 21722

Docket No: AP2025-003
Tax ID No: 10058031

Appellant: 142 144 Harvard Road LLC
14032 Fairview Road
Clear Spring MD 21722

Zoning: RU
RB Overlay: No
Zoning Overlay:
Filed Date: 02/19/2025
Hearing Date: 03/19/2025

Property Location: 142 & 144 Harvard Road
Hagerstown, MD 21742

Description Of Appeal: Variance to convert two-family dwelling into semi-detached dwellings for future subdivision. Variance from the required lot area of 5,000 sq. ft. to 4,500 sq. ft. and lot width requirement of 35 ft. to 25 ft. for both lots. For 142 Harvard Road: Variance from the required 10 ft side yard setback to 4.98 ft. For 144 Harvard Road: Variance from the required 10 ft. side yard setback to 5.08 ft.

Appellant's Legal Interest In Above Property: Owner: Yes Contract to Rent/Lease: No
Lessee: No Contract to Purchase: No
Other:

Previous Petition/Appeal Docket No(s):

Applicable Ordinance Sections: Washington County Zoning Ordinance Section 9.5 (a)

Reason For Hardship: See justification statement

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Two-family Dwelling Proposed Use: 2 Semi-detached Dwellings

Previous Use Ceased For At Least 6 Months: Date Ceased:

Area Devoted To Non-Conforming Use - Existing:
Proposed:

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

Handwritten signature of the appellant.

Appellant Signature

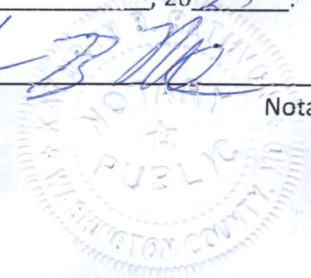
State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this Feb day of 2025.

Kathryn B Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND
MY COMMISSION EXPIRES NOVEMBER 07, 2025

Handwritten signature of the notary public.

Notary Public





WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2025-003

State of Maryland Washington County, To Wit:

On 2/19/2025, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Frederick Seibert & Associates Inc and made oath in due form of law as follows:

Frederick Seibert & Associates Inc will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 03/19/2025, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

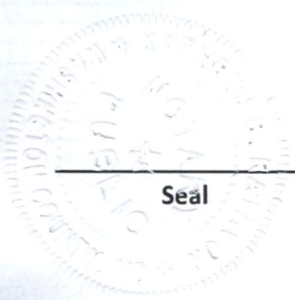
Sign(s) will be posted on 03/04/2025 and will remain until after the above hearing date.

Frederick Seibert & Associates Inc

Sworn and subscribed before me the day and year first above written.

Kathryn B Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND
MY COMMISSION EXPIRES NOVEMBER 07, 2025

Notary Public



Seal

My Commission Expires



BOARD OF ZONING APPEALS

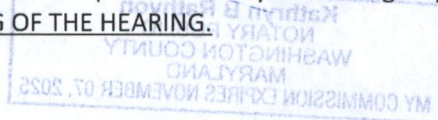
ATTENTION!

Posting Instructions

The premises **MUST** be posted in accordance with the following rules:

1. The sign must be posted a minimum of fourteen (14) days prior to the public hearing. Section 25.51(c) Property upon which the application or appeal is concerned shall be posted conspicuously by a zoning notice no less in size than twenty-two (22) inches by twenty-eight (28) inches at least fourteen (14) days before the date of the hearing.
2. The sign must be placed on the property within ten (10) feet of the property line which abuts the most traveled public road.
3. The sign must be posted in a conspicuous manner not over six (6) feet above the ground level, and affixed to a sturdy frame where it will be clearly visible and legible to the public.
4. The sign shall be maintained at all times by the applicant until after the public hearing. If a new sign is needed or required, please contact the Plan Review Department at 240-313-2460.
5. An affidavit certifying the property will be posted for the minimum of fourteen (14) days prior to the public hearing date.

Proper posting of the sign will be spot checked by the Zoning Inspector. IF SIGN IS NOT IN COMPLIANCE, IT MAY RESULT IN RESCHEDULING OF THE HEARING.



Project Name: 142 & 144 Harvard Road

Owner/Applicant: 142 144 Harvard Road, LLC
c/o John Henson
14032 Fairview Road
Clear Spring, MD 21722
301-573-1000
hensons@myactv.net

Project Address: 142 & 144 Harvard Road, Hagerstown, MD 21740

Tax Map 50 **Grid** 13 **Parcel** 1738

Account # 10058031

Zoning: RU following standards for Semi-Detached dwellings

Variance request: The applicant would like to reduce the lot area, lot width and side yard setback requirements as listed in table 9.5(a) for a proposed subdivision of the Duplex into Semi-Detached units allowing each side to be bought or sold individually. The requested reductions are as follows:

	<u>Required/lot</u>	<u>Proposed/lot</u>
Lot area	5,000 SF	4,500 SF
Lot width	35'	25'
Right side exterior	10'	4.98'
Left side exterior	10'	5.08'

This property is currently improved with a duplex unit (two dwellings under 1 roof owned by a single entity). The lot that this duplex is located on, Colonial Park Section B, Block 8, lot 26, was created and recorded in March 1942 and is 50 feet wide by 180 feet deep with an area of 9,000 SF. The duplex on this lot was constructed around 2001. The property zoning was the same then as it is now, RU. That being the case, modification 23.5 (a)(1) of the Washington County Zoning ordinance highlighted below must have been utilized as the lot did not meet the minimum bulk requirements for a two-family dwelling when the duplex was constructed. Please see table 9.5(a) from the Washington County Zoning Ordinance which is attached for stated minimums. Section 23.5 states the following:

Section 23.5 Yard Modification

(a) For any lot of record in any District wherein a single-family or two-family dwelling or mobile home is principally permitted and/or if such use is existing, if the lot does not

meet the minimum lot area and/or minimum lot width for the district in which it is located, the following modifications shall apply:

- (1) The sum of the side yard widths of such lots shall be a minimum of thirty percent of the lot width, and in no case shall any one side yard be less than ten percent of the width of the lot.

Simple math calculations can lead us to what the side yard setbacks should be and are as follows:

50-foot lot width x 30%=15 feet for the combined side yards with no side yard less than 10% or 5 feet.

The use of the modification stated in 23.5 is perfectly understandable considering the lot area and width of the lot was undersized when the lot was created in 1942. However, the combined sum of the side yards should have been a minimum of 15 feet, not 10 feet that currently exists.

Regarding the side yards, we are not reducing them any further than they currently are, and I believe a mistake was made when the dwellings were constructed in 2001 by not enforcing the minimum 30% of the lot width to create the combined side yards.

The spirit of Ordinance is observed in allowing the reduced width and setbacks for undersized lots or record. By using that modification when the structure was built also acknowledges the lot width and area were substandard however a built-in modification to allow a two-family dwelling was invoked. A property line down the middle of the unit creates the opportunity for a renter to then become a homeowner. Creating homeownership opportunities only enhances the quality of a neighborhood by taking pride and accountability in the neighborhood. The existing units are setup with separate water and electric meters as well as individual sewer to a common cleanout at the front property line. Maintaining strict compliance would continue to promote rental units infused in a neighborhood that is predominantly single-family dwelling units thus lowering the value of the single family units.

TABLE 9.5 WCZO

	Lot Area	Lot Width	Lot Area Per Family	Front Yard Depth	Side Yard (Width Each Side Yard)	Rear Yard Depth
Dwelling, Single-Family*	6,500 sq. ft.	60 ft.	6,500 sq. ft.	20 ft.	8 ft.	25 ft.
Dwelling, Two-Family*	10,000 sq. ft.	70 ft.	5,000 sq. ft.	25 ft.	10 ft.	40 ft.
Dwelling, Semi-Detached*	5,000 sq. ft.	35 ft.	5,000 sq. ft.	25 ft.	10 ft. (exterior side only)	40 ft.
Clubs, Fraternities, etc.	1 acre	150 ft.		25 ft.	25 ft.	40 ft.
Nursing/Convalescent Homes	1 acre	150 ft.		25 ft.	25 ft.	40 ft.
Other Permitted or Special Exception Uses	20,000 sq. ft.	100 ft.		25 ft.	20 ft.	40 ft.
Banquet/Reception Facilities	5 acres	300 ft.		50 ft.	100 ft.	50 ft.

*A corner lot shall maintain the specified front yard setback along both street frontages. Setbacks from the remaining property lines shall be measured as if they were side yard setbacks.

(b) The following minimum requirements shall apply where the Planning Commission has determined that the use of a public water and sewer system is not required according to the guidelines contained in Section 9.6.

Use	Lot Area	Lot Width	Lot Area Per Family	Front Yard Depth	Side Yard (Width Each Side Yard)	Rear Yard Depth
Single-family and semi-detached dwellings*	20,000 sq. ft.	100 ft.	20,000 sq. ft.	40 ft.	12 ft.	50 ft.
Two Family*	20,000 sq. ft.	100 ft.	10,000 sq. ft.	40 ft.	12 ft.	50 ft.

*A corner lot shall maintain the specified front yard setback along both street frontages. Setbacks from the remaining property lines shall be measured as if they were side yard setbacks.

Section 9.6 Public Facilities

(a) All new development in the Residential, Urban District shall be served by public water and sewer facilities that have been approved by the Health Department.

1. The Planning Commission may waive this requirement after consultation and advice from the Health Department.
2. Prior to a decision to grant or not grant a waiver of this requirement, the Planning Commission shall consider the following:

Frederick Seibert & Associates, Inc.

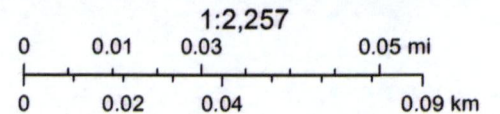


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Web AppBuilder for ArcGIS



BOARD OF ZONING APPEALS

OWNER REPRESENTATIVE AFFIDAVIT

This is to certify that ED SCHEIBER is authorized to file an appeal with the Washington County Board of Appeals for LOT WIDTH, AREA & SIDE YARD SETBACK VARIANCES on property located 142 & 144 HARVARD RD, HAGERSTOWN MD. The said work is authorized by JOHN HENSON 142 144 HARVARD RD LLC the property owner in fee.

PROPERTY OWNER
142 144 HARVARD RD LLC
C/O JOHN HENSON
Name
14032 FAIRVIEW RD
Address
CLEAR SPRING MD 21722
City, State, Zip Code



Owner's Signature

Sworn and subscribed before me this 18 day of February, 2025.

Notary Public signature



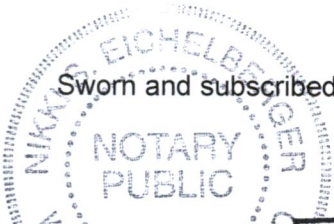
My Commission Expires:
NIKKI S. EICHELBERGER
NOTARY PUBLIC
WASHINGTON COUNTY
STATE OF MARYLAND
My Commission Expires 9/15/2028

AUTHORIZED REPRESENTATIVE
ED SCHEIBER, FSA
Name
128 S. POTOMAC ST
Address
HAGERSTOWN MD 21740
City, State, Zip Code

Authorized Representative's Signature

Sworn and subscribed before me this 18 day of February, 2025.

Notary Public signature



My Commission Expires:
NIKKI S. EICHELBERGER
NOTARY PUBLIC
WASHINGTON COUNTY
STATE OF MARYLAND
My Commission Expires 9/15/2028

80 West Baltimore Street | Hagerstown, MD 21740 | P: 240.313.2460 | F: 240.313.2461 | Hearing Impaired: 7-1-1

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

IN THE MATTER OF THE MT. AETNA
ADVOCACY GROUP, ET AL.
PETITION FOR THE JUDICIAL REVIEW
OF THE DECISION OF:

Case No. C-21-CV-22-00424

The Board of Appeals of Washington County
Appeal Number: AP2022-021
Appeal of Mt. Aetna Advocacy Group

ORDER

Upon consideration of the Petition for Judicial Review and the record in this case, it is
this 1st day of April, 2024, by the Circuit Court for Washington County, Maryland, hereby

ORDERED that the action Washington County Board of Appeals affirming the Planning
Commission's approval of Black Rock Holdings II, LLC's March 7, 2022 Third Proposed
Amendment to the 2002 approved Black Rock Planned Unit Development is hereby reversed and
remanded for further action in accordance with the Memorandum Opinion filed with this Order.

Date: April 1, 2024

/s/ Dana Moylan Wright

Dana Moylan Wright, Associate Judge
Circuit Court for Washington County, Maryland

cc:

Gregory L. Waterworth
Saul Ewing LLP
1001 Fleet Street, 9th Floor
Baltimore, MD 21202

Entered: Clerk, Circuit Court for
Washington County, MD
April 1, 2024

Attorneys for Petitioners

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Columbia, MD 21045
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Attorney for Washington County Board of Appeals