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|-------------------------------------|---|-----------------------------|
| <b>IN RE: PETITION FOR VARIANCE</b> | * | BEFORE THE OFFICE           |
| <b>(912 Taylor Avenue)</b>          |   |                             |
| 9 <sup>th</sup> Election District   | * | OF ADMINISTRATIVE           |
| 5 <sup>th</sup> Councilman District |   |                             |
| Ravenwood Shopping Center, LLC,     | * | HEARINGS FOR                |
| <i>Legal Owner</i>                  |   |                             |
| Sleepys, LLC, <i>Lessee</i>         | * | BALTIMORE COUNTY            |
| Petitioners                         |   |                             |
|                                     | * | <b>CASE NO. 2013-0311-A</b> |

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by David H. Karceski, Esquire, on behalf of the legal owner, Ravenwood Shopping Center, LLC, and lessee, Sleepys, LLC (“Petitioners”). The Variance was filed pursuant to Baltimore County Zoning Regulations (“B.C.Z.R”) §450.4 Attachment 1 .5(d) as follows: (1) to allow a total of four (4) wall-mounted enterprise signs in lieu of the permitted one (1) sign; and (2) to allow a wall-mounted enterprise sign on three (3) facades of a multi-tenant building for a tenant without a separate exterior customer entrance on each façade in lieu of the requirement for separate customer entrances. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1A and 1B.

Appearing at the public hearing in support of the requests was Alan Gersh, Vice President/Leasing, Ravenwood Shopping Center, LLC, and William (Bill) P. Monk with Morris & Ritchie Associates, Inc., the firm that prepared the site plan. David H. Karceski, Esquire and Justin Williams, Esquire, both with Venable, LLP, appeared as counsel and represented the Petitioners. There were no Protestants or interested citizens in attendance, and the file does not contain any letters of protest or opposition. The file reveals that the Petition was properly

advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

There were no substantive Zoning Advisory Committee (ZAC) comments received.

Testimony and evidence revealed that the subject property is approximately 8.00 +/- acres and zoned BL-AS, BL-CCC. The portion of the overall shopping center at issue was previously leased by Hollywood Video, which had several large signs on the exterior walls. See Exhibit 5A and 5B. The current lessee, Sleepys, proposes to install four (4) wall-mounted signs, but requires variance relief to do so.

Based upon the testimony and evidence presented, I will grant the request for variance relief. Under *Cromwell* and its progeny, to obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

*Trinity Assembly of God v. People's Counsel*, 407 Md. 53, 80 (2008).

Petitioners have met this test. The parcel is irregularly shaped, as shown on the site plan. Exhibit 1A and 1B. In addition, due to topography and off-site improvements, visibility into the site is limited. Thus, the property is unique.

If the B.C.Z.R. were strictly enforced, the Petitioners would indeed suffer a practical difficulty, since they would be unable to install the proposed signage which would help to direct motorists to the store. Indeed, as noted by counsel, the B.C.Z.R. would permit just one (1) sign, which in this case would face the interior of the site such that it would not be visible from Taylor Avenue. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This is demonstrated by the absence of County and/or community opposition.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the variance relief requested shall be granted

THEREFORE, IT IS ORDERED, this 3<sup>rd</sup> day of September, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Baltimore County Zoning Regulations (“B.C.Z.R”) § 450.4 Attachment 1 .5(d) as follows: (1) to allow a total of four (4) wall-mounted enterprise signs in lieu of the permitted one (1) sign; and (2) to allow a wall-mounted enterprise sign on three (3) facades of a multi-tenant building for a tenant without a separate exterior customer entrance on each façade in lieu of the requirement for separate customer entrances, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB: dlw