

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(8601 Gray Fox Road)		
4 th Election District	*	OF ADMINISTRATIVE
2 nd Councilman District		
Gardenview Apartment Associates, LLC	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2013-0318-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Edward J. Gilliss, Esquire, on behalf of the legal owner, Gardenview Apartment Associates, LLC. The Variance was filed pursuant to Baltimore County Zoning Regulations (“B.C.Z.R”) §450.4 Attachment 1 #2, to permit a 48 sq. ft., 13' high community sign in lieu of the permitted 25 sq. ft., 6' high sign at Foxcliff Road and Liberty Road. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the requests was James Grammer, with Polaris Land Consultants, whose firm prepared the site plan. Edward J. Gilliss, Esquire, with Royston, Mueller, McLean & Reid, LLP, appeared as counsel and represented the Petitioner. 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 comprised of two parcels totaling approximately 33 +/- acres and zoned DR 16. The site is improved with a large

apartment complex (588 units) constructed many years ago, which had recently fallen into disrepair. The Petitioner purchased the property in 2012, and has undertaken extensive repairs and renovations. The Petitioner would like to construct a sign informing prospective tenants of the new apartments and the location of the leasing office, but zoning relief is required before it can 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).

Petitioner has met this test. The parcel is large and irregularly shaped. In addition, the subject property is surrounded on all sides by business and commercially-zoned parcels. As such, the property is unique.

If the B.C.Z.R. were strictly enforced, the Petitioner would indeed suffer a practical difficulty, since it would be unable to install the proposed signage which would help to direct motorists (prospective tenants) to, and throughout, the site. 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 3rd 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 #2, to permit a 48 sq. ft., 13' high community sign in lieu of the permitted 25 sq. ft., 6' high sign at Foxcliff Road and Liberty Road, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner 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.

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB: dlw