

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2066 York Road)		
11 th Election District	*	OF ADMINISTRATIVE
3 rd Councilman District		
2066 York Road Partnership	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2014-0188-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Phyllis C. Friedman, Esquire, on behalf of the legal owner of the subject property. The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.), as follows:

1. 450.4 Attachment 1 #7 (b) for an existing free-standing sign of 150 sq. ft. in lieu of the permitted 100 sq. ft.;
2. 450.4 Attachment 1 #5 (d) for 2 Enterprise wall signs in lieu of the permitted 1;
3. 450.4 Attachment 1 #5(d) for a sign area of 52.5 sq. ft. in lieu of the permitted 48 sq. ft.
4. 409.6.2 for 60 parking spaces in lieu of the required 80;
5. 409.8.A.4 for a parking bay setback to a R/W of 8 ft. in lieu of 10 ft.;
6. 409.8.A.1 for a parking space setback to a building of 0 ft. in lieu of 6 ft.; for a setback for a paved surface to a lot line of 0' in lieu of 6' ; and for a parking lot median of 5 ft. ± in lieu of the permitted 9 ft.; and
7. 450.4 Attachment 1 #5(d) for an enterprise sign of 32 sq. ft. on a wall without a customer entrance in lieu of a wall with a customer entrance.

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 request was David Thaler, a Professional Engineer whose firm prepared the site plan. Phyllis C. Friedman, Esquire with Friedman & Friedman, LLP represented the Petitioner. The Petition was advertised and posted

as required by the B.C.Z.R. There were no Protestants in attendance and the file does not contain any letters of opposition.

Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DRP) dated March 21, 2014, indicating that a landscape plan is required and the existing parking setback along York Road must be maintained. The Department of Planning (DOP) submitted a comment dated April 7, 2014, expressing support for the Petitioner's request.

Testimony and evidence revealed that the subject property is approximately 1.3 acres and is zoned BL. The property is improved with two commercial buildings which front on York Road and Aylesbury Road, respectively. The buildings were constructed in 1978, and the existing signage and parking configuration have been in place for many years. The variance petition essentially seeks to "legitimize" the existing site conditions; no construction or improvements are proposed.

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 property has frontage along two busy commercial thoroughfares, and is therefore unique. If the B.C.Z.R. were strictly interpreted, the Petitioner would suffer a practical difficulty, given it would be unable to retain its signage and parking lots as currently configured. 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 lack of community and/or County agency opposition.

With respect to the Bureau of DPR's ZAC comment, Mr. Thaler noted that the only possible area for landscaping on the site would be along the York Road frontage. As shown on the plan, there are existing sidewalks along both York and Aylesbury Roads. I believe that landscaping along either road frontage could cause a visibility problem for both motorists and pedestrians. The site is and has been for many years well maintained and attractive. As such, I will not require the Petitioner to submit a landscape plan for the site. I will however require the Petitioner to maintain the 9' parking setback along York Road, as also discussed in DPR's ZAC comment.

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 19th day of May, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief as follows:

1. 450.4 Attachment 1 #7 (b) for an existing free-standing sign of 150 sq. ft. in lieu of the permitted 100 sq. ft.;
2. 450.4 Attachment 1 #5 (d) for 2 enterprise wall signs in lieu of the permitted 1;
3. 450.4 Attachment 1 #5(d) for a sign area of 52.5 sq. ft. in lieu of the permitted 48 sq. ft.
4. 409.6.2 for 60 parking spaces in lieu of the required 80;
5. 409.8.A.4 for a parking bay setback to a R/W of 8 ft. in lieu of 10 ft.;
6. 409.8.A.1 for a parking space setback to a building of 0 ft. in lieu of 6 ft.; for a setback for a paved surface to a lot line of 0' in lieu of 6'; for a parking lot median of 5 ft. ± in lieu of the permitted 9 ft.; and
7. 450.4 Attachment 1 #5(d) for an enterprise sign of 32 sq. ft. on a wall without a customer entrance in lieu of a wall with a customer entrance,

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.
- Petitioner shall not reduce or alter the existing parking bay setbacks of 9 feet (along the York Road frontage) and 8 feet (along the Aylesbury Road frontage), as shown on the site plan.

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

JEB:sln

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County