

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
9 th Election District	
5 th Council District	*
McDHAID LLC,	
<i>Legal Owner</i>	*
	ADMINISTRATIVE HEARINGS
	FOR BALTIMORE COUNTY
Petitioner	*
	Case No. 2015-0118-SPHA
* * * * *	

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of the legal owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to allow the continued use of the following: (1) free standing, existing enterprise sign 48.78 sq. ft. in size; and (2) wall mounted, existing enterprise sign 63 sq. ft. in size.

In addition, a Petition for Variance seeks the following: **(1)** wall mounted enterprise signs: 6 in lieu of permitted 3; **(2)** wall mounted joint identification sign (rear brand wall) without direct road frontage, and 2 such signs in lieu of permitted 1; **(3)** free standing directional sign 24 sq. ft. in lieu of 8 sq. ft.; **(4)** wall mounted directional sign 16 sq. ft. in lieu of 8 sq. ft.; **(5)** wall mounted directional sign 21 sq. ft. in lieu of 8 sq. ft.; **(6)** free standing enterprise sign with changeable copy portion of 64 sq. ft. in lieu of permitted 50 sq. ft.; and **(7)** free standing enterprise sign, 165.14 sq. ft. in lieu of 50 sq. ft.

A site plan was attached as Exhibit A to the Petition, and it provides details for each of the signs, with numerical references for each that correspond to the petition for variance. Appearing at the public hearing in support of the requests was Bruce Schindler, managing member of the owner. Keith R. Truffer, Esquire appeared on behalf of the Petitioner.

The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Mike Pierce, a community member, attended the hearing to express certain concerns which will be discussed in detail below. Substantive Zoning Advisory Committee (ZAC) comments were submitted by the Department of Planning (DOP) and the Bureau of Development Plans Review. These too will be discussed below.

The subject property is approximately 8 acres and is zoned BM & BM-AS. The property has significant road frontage along both Joppa Road and I-695. The site contains new and used automobile dealerships (“Bob Davidson”) and a tire and auto service operation known as “Quick Lane.” All of the signs shown on the plan currently exist on site, and several have been updated recently with new logos in connection with an extensive renovation of the site.

The petition for special hearing pertains to only two (2) signs: Nos. 12 and 14 as shown on Exhibit A attached to the zoning petition. These are enterprise signs (one freestanding and one wall-mounted), for the Quick Lane tire and service business on the site. The signs were installed in 2006 pursuant to a valid permit, although the County has indicated that it cannot locate the permit file on this matter. As such, the Petitioner was advised to seek special hearing relief to allow continued use of these signs. As noted, the signs were installed nearly 10 years ago, and the Petitioner submitted a County document (Ex. No. 6) reflecting that the application for sign permits for these two enterprise signs (which are described in detail) was in fact submitted on January 19, 2006. In these circumstance, I will grant special hearing relief to approve the continued use of these signs.

To obtain variance relief a petitioner must show:

- (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 site is large (approximately 8 acres), sprawling and irregularly shaped, and is therefore unique. The Petitioner would experience a practical difficulty if the regulations were strictly interpreted, since it would not be able to retain the existing signage, which as counsel notes are required by the relevant franchise agreements. Finally, the relief will not be injurious to the public welfare, as demonstrated by the support of the DOP.

The ZAC comments submitted by the DOP and DPR both identified landscaping as an issue on the site. Messrs. Kennedy (from DPR) and Pierce also expressed concern with vehicles offered for sale being parked on the “landscape strip,” as shown on the final landscape plan approved for this site. Ex. No. 8. The Petitioner agreed this was a valid concern, and indicated that overzealous salesmen are responsible for this infraction. A condition will be included in the order below which prohibits the parking of vehicles on this grassy landscape strip, and the Petitioner will also be required to install plantings along the Joppa Road frontage as shown on the final landscape plan.

The only other issue discussed at the hearing concerned nomenclature; i.e., whether the two “Bob Davidson” signs (sign nos. 5 and 7 as shown on Ex. A attached to the Petition) are “joint identification” signs (as the zoning office believes) or “enterprise” signs. One of these wall-mounted signs faces Joppa Rd. (No. 5) while the other faces the Beltway (No. 7). Mr. Pierce did not believe that they qualify as joint identification signs, since they do not “display[] the identity of a multi-occupant nonresidential development,” per B.C.Z.R. § 450.4 Table, paragraph 7. I agree these signs are not the prototypical example of a “joint identification” sign, as would be found at the entrance to a strip mall identifying each of the several stores/tenants featured in the center.

But upon further reflection I believe in these circumstances the signs are “joint identification” signs, and will defer to the zoning office’s interpretation, which I believe is

applicable only in the new and used automobile park setting. This site, like many large car dealers in the vicinity, offers vehicles from several brands, and the Regulations allow separate enterprise signs for each franchise. On this property there are four such franchises or separate commercial entities: Ford, Lincoln, Pre-Owned vehicles, and Quick Lane. The “Bob Davidson” sign qualifies as a joint identification sign because area consumers equate that name to Ford and Lincoln new and used vehicles. In much the same way consumers equate “Bob Bell,” “Thompson” and “Heritage” with the individual vehicle franchises (i.e., Nissan, Hyundai, Subaru, etc.) offered at those dealerships.

THEREFORE, IT IS ORDERED this 29th day of January, 2015, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to allow continued use of the following: (1) free standing enterprise sign of 48.78 sq. ft.; and (2) wall mounted enterprise sign of 63 sq. ft., be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance seeking the following: (1) wall mounted enterprise signs: 6 in lieu of permitted 3; (2) wall mounted joint identification sign (rear brand wall) without direct road frontage, and 2 such signs in lieu of permitted 1; (3) free standing directional sign 24 sq. ft. in lieu of 8 sq. ft.; (4) wall mounted directional sign 16 sq. ft. in lieu of 8 sq. ft.; (5) wall mounted directional sign 21 sq. ft. in lieu of 8 sq. ft.; (6) free standing enterprise sign with changeable copy portion 64 sq. ft. in lieu of permitted 50 sq. ft.; and (7) free standing enterprise sign, 165.14 sq. ft. in lieu of 50 sq. ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for

whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

2. Petitioner shall not keep or park automobiles or other vehicles on the grassy landscape strip adjoining Joppa Road, as shown on the final landscape plan attached hereto.
3. Petitioner shall within 90 days of the date hereof install plantings along the Joppa Road frontage of the site, as shown on the final landscape plan attached hereto.

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