

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(1407-1447 York Road) *	OFFICE OF
9 th Election District	
3 rd Council District *	ADMINISTRATIVE HEARINGS
Seminary Galleria LLC	
	FOR BALTIMORE COUNTY
Petitioner *	Case No. 2015-0226-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 an existing freestanding joint identification sign and an existing freestanding enterprise sign with an electronic message board on the same frontage of a shopping center property (Sign No. 2). In addition, a Petition for Variance seeks the following: (1) for existing freestanding joint identification signs to display a maximum of 23 lines of text with sign copy a minimum of 1 inch in height in lieu of the permitted 5 lines of text and required 8 inches in height for sign copy (Sign Nos. 1 & 3); (2) for an existing freestanding joint identification sign with a sign height of 30 feet in lieu of the permitted 25 feet (Sign No. 3); and (3) for an existing freestanding directional sign with a height of 6 feet, 2 inches in lieu of the permitted 4 feet (Sign No. 4). A site plan was marked and accepted into evidence as Petitioner’s Exhibits 1A & 1B.

Appearing at the public hearing in support of the requests was Tracee Cutair, Alex Watkins and landscape architect Bernt Petersen. David H. Karceski, Esq. and Adam Rosenblatt, Esq. appeared and represented the Petitioners. Three members of the community attended and opposed

the requests. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no substantive Zoning Advisory Committee (ZAC) comments received.

PETITION FOR SPECIAL HEARING

The petition for special hearing seeks to permit a joint identification and enterprise sign along the same frontage of a shopping center. There does not appear to be any provision in the B.C.Z.R. which expressly prohibits such an arrangement. But, as Mr. Pierce notes, the definition provided for each of these sign types indicates they are mutually exclusive; i.e., a shopping center cannot have both a joint identification and enterprise sign.

A joint identification sign is one “displaying the identity of a multi-occupant nonresidential development such as a shopping center.” B.C.Z.R. §450.4. An enterprise sign is one which “displays the identity. . . [of an] individual organization.” B.C.Z.R. §450.4. In this case, the enterprise sign identifies a (former) health club tenant (Exhibit 1B, Sign #2) located in the lower level of the strip center. The health club is therefore one of the “occupants” of the “shopping center” per the definition quoted above. As such, that tenant can be displayed on the joint identification sign, but cannot have its own enterprise sign.

Any contrary interpretation would permit each business/occupant to have an enterprise sign, an untenable result in the present scenario where the center has approximately 60 tenants. The rule would be otherwise if the business in question was situated on a pad site or was by other means segregated from the primary shopping center complex. As indicated at the hearing, it may well be that Kaiser Permanente, the sole tenant in the eight-story Galleria Towers office building, would be entitled to its own enterprise sign. But the same cannot be said for the athletic club which occupies a lower-level space in the shopping center itself.

VARIANCES

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 is irregularly shaped and has a significant topographical change across the site. In addition, it has more than 450 feet of frontage on York Road, far more than neighboring commercial sites in the vicinity. As such, it is unique. If the B.C.Z.R. were strictly interpreted, Petitioner would experience a practical difficulty, given it would be unable to retain the existing signs which have been in place for many years. 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. None of the reviewing agencies opposed the requests, and the existing freestanding joint identification signs (as well as the small directional sign) are similar to those in place at numerous shopping centers throughout the County. While I am sympathetic to the community's concerns and understand its relationship with the Petitioner has been problematic, I do not believe that allowing existing Sign Nos. 1, 3 & 4 would be injurious to the public health, safety and welfare.

THEREFORE, IT IS ORDERED this 11th day of June, 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 an existing freestanding joint identification sign and an existing freestanding enterprise sign with an electronic message board (Sign No. 2) on the same frontage of a shopping center property, be and is hereby DENIED.

IT IS FURTHER ORDERED that the Petition for Variance: (1) for existing freestanding joint identification signs to display a maximum of 23 lines of text with sign copy a minimum of 1 inch in height in lieu of the permitted 5 lines of text and required 8 inches in height for sign copy (Sign Nos. 1 & 3); (2) for an existing freestanding joint identification sign with a sign height of 30 feet in lieu of the permitted 25 feet (Sign No. 3); and (3) for an existing freestanding directional sign with a height of 6 feet, 2 inches in lieu of the permitted 4 feet (Sign No. 4), be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon 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.

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