

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(1502-1516 York Road)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
York Hill Realty, LLC,	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0274-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance 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.) §450.4 as follows: (1) for existing freestanding joint identification signs to display a maximum of 13 lines of text with a sign copy a minimum of 1 in. in height in lieu of the permitted five (5) lines of text and required 8 in. in height for sign copy (Sign Nos. 1 and 2); (2) for an existing freestanding joint identification sign with a sign height of 31 ft. in lieu of the permitted 25 ft. (Sign No. 1); (3) for an existing freestanding joint identification sign with a sign area/face of 352 sq. ft. in lieu of the permitted 150 sq. ft. (Sign No. 1); and (4) for an existing freestanding joint identification sign with a sign area/face of 191 sq. ft. in lieu of the permitted 100 sq. ft. (Sign No. 2). The petition was amended at the hearing to include a fifth variance request concerning a sign setback requirement from a residential zone. The subject property and requested relief is more fully depicted on the site plan marked as Petitioner’s Exhibit 1.

Tracee Cutair appeared on behalf of the owner in support of the petition. David H. Karceski, Esq. and Adam Rosenblatt, Esq. appeared on behalf of the Petitioner. Michael Pierce attended the hearing and opposed certain aspects of the request. The petition was advertised and

posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Bureau of Development Plans Review, indicating that landscaping should be provided.

The subject property is approximately 1.031 acres and is zoned BL and BL-AS. The site is improved with a shopping center. Although no changes are proposed to the existing signage, the current sign regulations require Petitioner to obtain variances to continue using the signs.

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 frontage on both York Road and Seminary Avenue. 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 signage which has been in place for many years without complaint. 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.

Mr. Pierce argued that although the freestanding sign on Seminary Avenue may be permitted, it is close to a residential zone and should be allowed to remain as a nonconforming sign only, without variance relief. While there is some merit to this argument, there has been no evidence presented that the community objects to the sign and I do not believe it is excessive or distracts motorists. In fact, the sign alerts patrons to the Seminary Avenue access point, through which customers can reach the center without entering the fray along York Road. Mr. Pierce's second argument concerned the requested 1 in. sign copy, and I too believe that would be difficult

for motorists to read and could lead to confusion or distraction. As such, the minimum sign copy will be 3 in. which seems to be in line with recent shopping center sign cases.

THEREFORE, IT IS ORDERED, this 21st day of **July, 2015**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (“B.C.Z.R.”) §450.4 as follows: (1) for existing freestanding joint identification signs to display a maximum of 8 lines of text with sign copy a minimum of 3 in. in height in lieu of the permitted five (5) lines of text and required 8 in. in height for sign copy (sign Nos. 1 and 2); (2) for an existing freestanding joint identification sign with a sign height of 31 ft. in lieu of the permitted 25 ft. (Sign No. 1); (3) for an existing freestanding joint identification sign with a sign area/face of 352 sq. ft. in lieu of the permitted 150 sq. ft. (Sign No. 1); (4) for an existing freestanding joint identification sign with a sign area/face of 191 sq. ft. in lieu of the permitted 100 sq. ft. (Sign No. 2); and (5) to allow a freestanding enterprise sign to be located as close as 70 ft. from a residential zone in lieu of the required 100 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner must provide ornamental grasses along the strip of land adjoining York Road.

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