

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(1407 York Road)		
9 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
Seminary Galleria, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2016-0106-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 Seminary Galleria, LLC, owner of the subject property (“Petitioner”). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §450.4 as follows: (1) from 7 (b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy of a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 in. in height for sign copy (Sign No. 2); and (2) from 7 (b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2). A site plan was marked as Petitioner’s Exhibit 1A & 1B, with the signage details shown on the latter exhibit.

Laurie Kapraun, property manager with Hill Management, appeared in support of the Petition. David H. Karceski, Esq. represented the Petitioner. Several members of the community attended the hearing and objected to the requests. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR).

The subject property is approximately 9.54 acres and is zoned BL and DR 5.5. The Galleria

shopping center and office complex is located at the site. Petitioner seeks variance relief with respect to an existing freestanding sign, shown on the plan as Sign 2. In a recent case, Petitioner was denied special hearing relief to permit the continued use of this freestanding sign, which at the time was categorized as an enterprise sign; i.e., it related to only one entity, a health club that was formerly a tenant at the site. That petition was denied because the Regulations do not permit both enterprise and joint identification signs along the same frontage, unless a pad site is at issue. As Ms. Kapraun explained, Petitioner proposes to “repurpose” the sign as a joint identification sign, for which variance relief is sought.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Petitioner has met this test. The property is unique based on several attributes: i.e., its size, shape and topography. Perhaps more to the point, the subject property was held to be unique in Case No. 2015-0226-SPHA, and that finding was not appealed. As such, it is applicable herein based on collateral estoppel and/or *res judicata*. Seminary Galleria, LLC v. Dulaney Valley Improv. Ass’n, Inc., 192 Md. App. 719, 736 (2010). If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be required to remove the existing sign, which was erected lawfully pursuant to a permit issued in 2006. Petitioner’s Exhibit 4. 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.

THEREFORE, IT IS ORDERED, this 26th day of February, 2016, 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) from 7 (b)(IX) for a freestanding joint identification sign to display a maximum of 6 lines of text with sign copy of a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 in. in height for sign copy (Sign No. 2); and (2) from 7 (b)(VI) to permit a third joint identification sign on a property with 2 frontages (Sign No. 2), 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.

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:/sln