

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(20 & 22 Timonium Road) *	OFFICE OF
8 th Election District	
3 rd Council District *	ADMINISTRATIVE HEARINGS
Schaefer-Timonium LLC	
<i>Owner</i> *	FOR BALTIMORE COUNTY
Petitioner	
	Case No. 2016-0305-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 Schaefer-Timonium LLC, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R) to approve an amendment to the site plan approved in Case No. 2013-23-A. In addition, a Petition for Variance seeks: (1) to allow a total of six wall-mounted enterprise signs on a single façade in lieu of the permitted three signs with no more than two on a single façade; and (2) to allow two directional signs with sign areas/faces of 9.5 sq. ft. each in lieu of the permitted 8 sq. ft. An amended petition was submitted at the hearing to change the size of the 2 directional signs from 9.5 sq. ft. to 10.46 sq. ft. Petitioner’s Ex. 1. A site plan was marked and accepted into evidence as Petitioner’s Ex. 2.

Appearing at the public hearing in support of the requests were professional engineer Ken Colbert and Bill Schaefer. Chris Mudd, Esq. represented the Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPR) and the Department of Planning (DOP). Both concerned landscaping, which will be discussed below.

The subject property is 2.66 acres in size and is split-zoned BM, BR and MR-IM. A Nationwide Infiniti automobile dealership operates at the site.

SPECIAL HEARING

The petition for special hearing was filed at the behest of the zoning office, for record-keeping purposes. The petition merely seeks confirmation that the zoning relief granted herein, along with the site plan admitted as Exhibit 2, will amend the Order and site plan approved in Case No. 2013-0023-A.

VARIANCE

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 site is bordered by the Maryland State Fairgrounds and several large horse stables limit visibility into the site. These were the same factors noted in Case No. 2013-0023-A, where the property was found to be unique. Petitioner would experience practical difficulty if the regulations were strictly interpreted because it would be unable to install the signs required by its franchise agreements. Finally, I find that this 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 County and/or community opposition.

The DOP requested Petitioner submit a plan documenting the existing landscaping at the site. The Petitioner submitted a landscape plan (Petitioner's Ex. 8) prepared by Human & Rohde,

Inc., landscape architects. That plan contains a chart showing the existing planting units exceed that which is required by Condition C of the Landscape Manual, concerning automotive display areas. As such, I find that Petitioner has also satisfied the DPR ZAC comment, which referenced the “Class D” screen required by Condition C noted above.

THEREFORE, IT IS ORDERED this 22nd day of **July, 2016**, 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 approve an amendment to the site plan approved in Case No. 2013-0023-A, in accordance with the terms of the Order and site plan herein, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance which seeks: (1) to allow a total of six wall-mounted enterprise signs on a single façade in lieu of the permitted three signs with no more than two on a single façade; and (2) to allow two directional signs with a maximum sign area/face of 10.46 sq. ft. each in lieu of the permitted 8 sq. ft., 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