

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(10100 Reisterstown Road)</b>		
3 <sup>rd</sup> Election District	*	OF ADMINISTRATIVE
2 <sup>nd</sup> Council District		
GGCV Real Estate LLC, <i>Legal Owner</i>	*	HEARINGS FOR
Zoës Maryland, LLC		
<i>Lessee</i>	*	BALTIMORE COUNTY
Petitioners	*	<b>CASE NO. 2017-0099-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by GGCV Real Estate, LLC, owner of the subject property and Zoes Maryland, LLC, lessee (“Petitioners”). The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a total of 5 wall-mounted enterprise signs in lieu of the 3 permitted by way of the variance granted in Case No. 2016-0298-A, as follows: (A) On the southeast wall, 2 wall-mounted enterprise signs in lieu of the permitted one wall-mounted and one canopy sign with sign areas/faces of 112 and 5 sq. ft. instead of the permitted 63 and 0 sq. ft. (Sign Nos. 1 and 2); (B) On the northeast wall, 2 wall-mounted enterprise signs in lieu of the permitted one wall-mounted and one canopy sign with sign area/faces of 105 and 105 sq. ft. instead of the permitted 60 and 63.58 sq. ft. (Sign Nos. 3 and 4); and (C) On the northwest wall, 1 wall-mounted enterprise sign with a sign area/face of 98 sq. ft. in lieu of the permitted 56 sq. ft. (Sign No. 5). A two-sheet site plan was marked as Petitioners’ Exhibit 1A & 1B.

Landscape architect Michael Pieranunzi and Keith Miller appeared in support of the petition. David H. Karceski, Esq. represented the Petitioners. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the

B.C.Z.R. No substantive Zoning Advisory Committee (ZAC) comments were received from County review agencies.

The subject property is approximately 49.5 acres and is zoned BM. The Foundry Row shopping center is located at the site, and is a mixed-use development featuring retail, restaurants and office space. This case involves one tenant at the center, Zoës Kitchen, which proposes to install at its restaurant certain signage for which zoning relief is required.

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).

Petitioners have met this test. The large property has irregular dimensions and a significant (+/- 60 ft.) grade change across the site, as shown on the grading plan submitted as Petitioners' Exhibit 5. As such it is unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to install the proposed signs. 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. This is demonstrated by the lack of Baltimore County and community opposition. In addition, the proposed signs are tasteful and will not cause "visual clutter," and the Department of Planning noted they are in compliance with the pattern book approved in the Foundry Row development case.

THEREFORE, IT IS ORDERED, this 9<sup>th</sup> day of December, **2016**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit a total of 5 wall-mounted

enterprise signs in lieu of the 3 permitted by way of the variance granted in Case No. 2016-0298-A, as follows: (A) On the southeast wall, 2 wall-mounted enterprise signs in lieu of the permitted one wall-mounted and one canopy sign with sign areas/faces of 112 and 5 sq. ft. instead of the permitted 63 and 0 sq. ft. (Sign Nos. 1 and 2); (B) On the northeast wall, 2 wall-mounted enterprise signs in lieu of the permitted one wall-mounted and one canopy sign with sign area/faces of 105 and 105 sq. ft. instead of the permitted 60 and 63.58 sq. ft. (Sign Nos. 3 and 4); and (C) On the northwest wall, 1 wall-mounted enterprise sign with a sign area/face of 98 sq. ft. in lieu of the permitted 56 sq. ft. (Sign No. 5), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners 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.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:sln