

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(2375 Rolling Road)		
2 <sup>nd</sup> Election District	*	OF ADMINISTRATIVE
4 <sup>th</sup> Council District		
Dogwood Associates Limited Partnership	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	<b>CASE NO. 2017-0116-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 Dogwood Associates Limited Partnership, owner of the subject property (“Petitioner”). The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (B.C.Z.R) as follows: (1) to permit up to 2 freestanding joint identification signs per frontage on Rolling Road in lieu of the permitted 1 per frontage; and (2) to permit a freestanding joint identification sign within 40 ft. of a residential zone in lieu of the permitted distance of 100 ft. A site plan was marked as Petitioner’s Exhibit 1.

Landscape architect David L. Martin and Frank Maccherone appeared in support of the petition. Lawrence E. Schmidt, Esq. represented the Petitioner. There were no Protestants or interested citizens in attendance. 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 Department of Planning (DOP). That agency did not oppose the requests but noted that all non-permitted banner signs should be removed from the property.

The property is approximately 12.07 acres and is zoned BL (10.61 Ac.) and DR 5.5. (1.46 Ac). Commercial parking is permitted on the portion of land zoned DR 5.5, pursuant to the order issued in Case No. 1989-497-SPH. The property is improved with two one-story commercial

buildings which contain a variety of tenants including restaurants, grocery store and medical office. Petitioner initially sought variance relief to permit two (2) joint identification signs along the same road frontage. Two joint identification signs have existed for many years at the shopping center, although certain tenants have changed and the sign abatement provisions in the B.C.Z.R. require Petitioner to obtain zoning relief.

The Petition was amended at the hearing to add an additional variance request to permit four (4) enterprise signs on a single façade in lieu of three (3) such signs as permitted by the Regulations. This request pertains to the building in the eastern portion of the site, farthest removed from Rolling Road. This building will be occupied by a Dollar Tree, Bhavani Food grocery store and a surgery center. As such three enterprise signs are permitted, although the elevation drawings admitted as Petitioner's Exhibit 10A & 10B depict four such signs along the same façade, necessitating variance relief.

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 irregularly shaped and is therefore unique. In addition, findings of uniqueness have been made in at least two prior zoning cases involving the property. See Case Nos. 1993-0390-SPHXA & 1991-0280-A. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it 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 community and/or Baltimore County opposition.

THEREFORE, IT IS ORDERED, this 16<sup>th</sup> day of December, **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) as follows: (1) to permit up to 2 freestanding joint identification signs per frontage on Rolling Road in lieu of the permitted 1 per frontage; (2) to permit a freestanding joint identification sign within 40 ft. of a residential zone in lieu of the permitted distance of 100 ft.; and (3) to permit four wall-mounted enterprise signs, as depicted on Petitioner’s Exhibit 10A & 10B, 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.
2. Petitioner must within 30 days of the date hereof remove all non-permitted temporary signage and banners from the site.

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