

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(1616-1618 York Road)	*	OFFICE OF
8 <sup>th</sup> Election District		
3 <sup>rd</sup> Council District	*	ADMINISTRATIVE HEARINGS
1616 York Road LLC &		
Three W Realty, LLC	*	FOR BALTIMORE COUNTY
<i>Legal Owners</i>		
Petitioners	*	<b>Case No. 2017-0261-SPHA</b>

\* \* \* \* \*

**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 1616 York Road, LLC and Three W Realty, LLC, legal owners (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to confirm each parcel can have its own freestanding enterprise sign. As originally filed, a Petition for Variance sought to permit 25 parking spaces in lieu of the required 38 spaces for an existing 14,852 sq. ft. furniture store. That request was amended at the hearing, and Petitioners now seek approval for 29 spaces in lieu of 38. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Keith Ronald, A. Henry Marconi, III and professional engineer Rick Richardson appeared in support of the requests. John B. Gontrum, Esq. represented Petitioners. 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). Neither agency opposed the requests.

The subject property is comprised of two parcels: 1616 York Road, approximately 37,802 square feet in size and 1620 York Road, approximately 63,960 square feet in size. The properties are zoned

BL/BL-AS. Watson's Fireplace & Patio is operated at 1616 York Road. Watson's Garden Center was for many years located at 1620 York Road, although that business no longer operates at the location and the commercial building was razed by the new owner. A development plan for 1620 York Road was approved by Baltimore County in 2016, *see* PAI File #08-0446, and a new commercial building has been constructed on that parcel.

### SPECIAL HEARING

The special hearing request was made at the suggestion of the zoning office. Apparently, though there is no formal or written finding to that effect, there is some intimation these lots merged since for many years they were owned by the same family. As counsel noted, Watson's Fireplace and Patio was somewhat of an institution on York Road, and for many years the patio/furniture store was operated on one portion of the site while a separate business (i.e., "Watson's Garden Center") was operated adjacent thereto.

While it is true as counsel notes there were reciprocal easements between the properties and parking was in a sense shared between the two stores, those facts do not mandate a finding the lots have merged. Indeed, the zoning regulations (B.C.Z.R. §409.6) expressly permit in specific circumstances businesses to have a shared parking arrangement, and doing so obviously does not cause the properties to merge. Counsel also noted the stores were through the years operated as distinct commercial enterprises, and each store had a separate sign on York Road (which is exactly the relief sought in this case).

In light of the above I do not believe these lots have merged as a matter of law. As such, each property is entitled to one (1) freestanding sign, and Petitioners indicate the signs will otherwise comply with B.C.Z.R. §450 in terms of height, face area, etc.

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).

Long-existing site improvements constrict the available space for off-street parking, and the property is therefore unique. Petitioners would experience practical difficulty if the regulations were strictly interpreted because they would be unable to operate the business at this location. Finally, as demonstrated by the lack of County and/or community opposition, I do not believe granting the requests would have a detrimental impact upon the community.

THEREFORE, IT IS ORDERED this 20<sup>th</sup> day of **June, 2017**, 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 confirm each parcel can have its own freestanding enterprise sign, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the petition for variance to permit 29 parking spaces in lieu of the required 38 spaces for the existing 14,852 sq. ft. furniture store, be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon 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.

2. Prior to issuance of permits Petitioners must obtain approval from Baltimore County of landscaping and lighting plans for both 1616 and 1620 York Road.
3. The design and materials used for the sign at 1620 York Road shall be similar to the elevation drawing labeled as “Exhibit 6,” a copy of which is attached hereto and incorporated herein.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JEB/sln

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County