

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(1100 N. Rolling Road)		
1 st Election District	*	OFFICE OF
1 st Council District		
Rolling Road Plaza Business Trust	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Bridgestone Retail Operations	*	FOR BALTIMORE COUNTY
<i>Lessee</i>		
Petitioners	*	Case No. 2018-0084-SPH

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Rolling Road Plaza Business Trust, legal owner and lessee Bridgestone Retail Operations (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R”) as follows: (1) to approve the replacement of an existing freestanding enterprise sign for a single tenant in a multi-tenant retail building (shopping center); and (2) to permit the replacement of an existing freestanding sign, along the same frontage (N. Rolling Road) where there is an existing freestanding joint identification sign for a shopping center. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1A & 1B.

Ken Padgett and Mitch Kellman appeared in support of the petition. Lawrence E. Schmidt, 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. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency did not object to the requests.

The subject property is approximately 5.75 acres in size and zoned BL. The property is improved with a strip shopping center and is located at the intersection of N. Rolling Road &

Powers Lane, one block from Baltimore National Pike. Bridgestone/Firestone, the lessee, obtained a special exception in 1970 to operate a service garage at the property, and has been at this same location for nearly 50 years. Petitioners presented the file from the 1970 zoning case (#70-138-X, Exhibit 3), including a site plan which specifically demarcates a “special exception area” for this service garage operation, which in essence renders this a pad site. Firestone for years had a freestanding enterprise sign at the site, but it was damaged and had to be removed. This petition was filed seeking a determination Petitioners are entitled to replace that sign.

Under the sign regulations, a freestanding enterprise sign is permitted in a BL zone, provided it is not in conjunction with a “multi-tenant office, retail or industrial building.” B.C.Z.R. §450.4, Sign Table, Attachment 1:4. This case involves a strip shopping center, not a multi-tenant building such as an office building or professional center. The sign proposed here (approximately 16 ft. x 3.5 ft.) would also comply with the 75 sq. ft. area and 25 ft. height limitation set forth in that same regulation. *Id.*

The sign table also restricts freestanding enterprise signs to “one per frontage.” *Id.* This shopping center has two frontages: on Rolling Road and Powers Lane. One tenant at the center--CORT furniture rental--has a freestanding enterprise sign on the Rolling Road frontage. The proposed Firestone sign would be located at the corner of the property at the intersection of Powers Lane and Rolling Road. Based on a photograph submitted at the hearing (Ex. 2N) the proposed sign would be clearly visible from both roadways and in my opinion the sign is permitted since it has frontage on Powers Lane and is the only freestanding enterprise sign on that frontage.

The DOP’s ZAC comment indicated the dumpster(s) at the site were not properly stored on the pad shown on the site plan. Counsel indicated the refuse hauler misplaced the dumpsters

after they were emptied, and Petitioners agreed to locate the dumpsters on the pad as shown on the plan.

The DOP also indicated it noticed during a site visit a shipping container on the property, which it suggested should be removed. Firestone stores worn tires in the container, where they are picked up for disposal by a licensed hauler in compliance with state regulations. Mr. Padgett stated Firestone previously stored the used tires outside, in the area now occupied by the container. But the landlord objected and insisted that used tires not be stored outside. The tenant does not have sufficient space inside to store the tires, and Mr. Padgett noted that all tire retailers and service garages keep old tires outside of the service bay areas, usually in the rear of the building.

Due to the unusual configuration of this site, and the fact it is bordered by two roadways, Firestone does not have any area outside its store (not visible to the public) where it could keep these tires. As such, it acquired the container so the used tires would not be visible to passersby or fill with rain water creating a breeding ground for mosquitoes. I am sympathetic to the tenant's plight, and frankly do not know whether a container of this sort would be permitted in connection with a service garage in a BL zone under these circumstances. As such, I believe this is a matter best left to the Code Enforcement Bureau of the Department of Permits, Approvals and Inspections (PAI).

THEREFORE, IT IS ORDERED this 7th day of **November, 2017** by this Administrative Law Judge, that the Petition for Special Hearing to approve the replacement of an existing freestanding enterprise sign for a single tenant in a shopping center, 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. Petitioners must within 30 days of the date hereof relocate the dumpster(s) on the site to the “dumpster pad” area shown on the site plan which was marked and admitted as Exhibit 1A. The dumpsters and/or enclosures must comply with the requirements of Condition H of the Baltimore County Landscape Manual.

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln