

|                                     |   |                             |
|-------------------------------------|---|-----------------------------|
| <b>IN RE: PETITION FOR VARIANCE</b> | * | BEFORE THE OFFICE           |
| (1401-1417 Merritt Boulevard)       |   |                             |
| 12 <sup>th</sup> Election District  | * | OF ADMINISTRATIVE           |
| 7 <sup>th</sup> Council District    |   |                             |
| Oekos Dundalk, LLC                  | * | HEARINGS FOR                |
| <i>Legal Owner</i>                  |   |                             |
|                                     | * | BALTIMORE COUNTY            |
| Petitioner                          |   |                             |
|                                     | * | <b>CASE NO. 2018-0192-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 Oekos Dundalk, LLC, legal owner of the subject property (“Petitioner”). The Petition seeks variance relief from § 450.4 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: **(1)** to allow 2 freestanding joint identification signs on Merritt Boulevard with sign areas/faces of 100 and 150 sq. ft. in lieu of the permitted 1 freestanding joint identification sign with a sign area/face of 150 sq. ft. (Signs C,D); **(2)** to allow freestanding joint identification signs to display a maximum of 8 lines of text with a sign copy a minimum of 3 in. in height in lieu of the permitted 5 lines of test and required 8 in. height for sign copy (Signs A, C, D); **(3)** to allow tenants in a multi-tenant commercial building a wall-mounted enterprise sign with a sign area/face that exceeds two times the length of the wall containing the exterior entrance and defining the space occupied by the tenant (Sign 3 [165 sq. ft. lieu of 139 sq. ft.], Sign 5B [85 sq. ft. in lieu of 76 sq. ft.], Sign 9B [273 sq. ft. in lieu of 96 sq. ft.]); **(4)** to allow a wall-mounted enterprise sign to be installed in a different location than the tenant space (Sign 9A); and **(5)** to allow an additional wall-mounted enterprise sign to be installed on a multi-tenant commercial building over other tenant spaces in lieu of the permitted 1 wall-mounted enterprise sign for each tenant space (Sign 9A). A four-sheet site plan was marked as Petitioner’s

Exhibit 1A-1D.

Architect Gary Getz, Ken Myers and Laurie Mazzotta appeared in support of the petition. David Karceski, 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 Bureau of Development Plans Review (DPR).

The site is approximately 16 acres in size and zoned BM. The Dundalk Plaza Shopping center has been operated at the site for many years. The center is undergoing substantial renovations including new 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).

Mr. Getz testified the property is much wider than it is deep. He also noted the road frontage on Merritt Boulevard is 2-3 times more than that of nearby strip shopping centers. As such the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to provide adequate signage for the center. Finally, I find that the variance can be granted in harmony with the spirit and intent of the BCZR, and in such manner as to grant relief without injury to the public health, safety and general welfare. This is demonstrated by the absence of community and/or Baltimore County opposition.

THEREFORE, IT IS ORDERED, this 20<sup>th</sup> day of **March, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance: **(1)** to allow 2 freestanding joint

identification signs on Merritt Boulevard with sign areas/faces of 100 and 150 sq. ft. in lieu of the permitted 1 freestanding joint identification sign with a sign area/face of 150 sq. ft. (Signs C,D); **(2)** to allow freestanding joint identification signs to display a maximum of 8 lines of text with a sign copy a minimum of 3 in. in height in lieu of the permitted 5 lines of text and required 8 in. height for sign copy (Signs A, C, D); **(3)** to allow tenants in a multi-tenant commercial building a wall-mounted enterprise sign with a sign area/face that exceeds two times the length of the wall containing the exterior entrance and defining the space occupied by the tenant (Sign 3 [165 sq. ft. in lieu of 139 sq. ft.], Sign 5B [85 sq. ft. in lieu of 76 sq. ft.], Sign 9B [273 sq. ft. in lieu of 96sq.ft.]); **(4)** to allow a wall-mounted enterprise sign to be installed in a different location than the tenant space (Sign 9A); and **(5)** to allow an additional wall-mounted enterprise sign to be installed on a multi-tenant commercial building over other tenant spaces in lieu of the permitted 1 wall-mounted enterprise sign for each tenant space (Sign 9A), 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 provide landscaping near the base of the freestanding signs on the property, as determined in the sole discretion of the Baltimore County landscape architect.

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