

**IN RE: PETITIONS FOR SPECIAL  
EXCEPTION AND VARIANCE  
(4508-4514 Painters Mill Road)**

2<sup>nd</sup> Election District  
4<sup>th</sup> Council District  
Howard Hospitality, Inc.

*Legal Owner*  
**Petitioner**

\*  
\*  
\*  
\*  
\*

BEFORE THE  
OFFICE OF  
ADMINISTRATIVE HEARINGS  
FOR BALTIMORE COUNTY  
**Case No. 2018-0274-XA**

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as Petitions for Special Exception and Variance filed for property located at 4508-4514 Painters Mill Road. The Petitions were filed on behalf of the legal owner of the subject property.

The Special Exception petition seeks to use the described property for a hotel. The Petition for Variance seeks: (1) to allow a total of 3 wall-mounted enterprise signs with maximum sign areas/faces of 94 sq. ft., 94 sq. ft. and 46 sq. ft. in lieu of the permitted 1 wall-mounted enterprise sign with a maximum sign area/face of 150 sq. ft.; and (2) to allow a freestanding enterprise sign with a sign area/face of 30 sq. ft. in lieu of the maximum permitted sign area/face of 25 sq. ft. A two-sheet site plan was marked as Petitioner’s Exhibit 1A-1B.

Appearing in support of the petitions were Chet and Vivek Patel, professional engineer Mickey Cornelius and landscape architect Robert Royer. David H. Karceski, Esq. and Adam Rosenblatt, Esq. represented the Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (“DOP”) and the Bureau of Development Plans Review (“DPR”). Neither agency opposed the requests.

The subject property is approximately 4.09 acres +/- in size, although the special exception area for the hotel is 2.265 acres. Pet. Ex. 1A, notes 9 & 10. The property is split-zoned OR-2, DR-16 and RAE, and is improved with a single-family dwelling which is unoccupied. Petitioner proposes to raze the single-family dwelling and construct an extended-stay hotel on the site. A similar proposal was approved in 2008, although the hotel was never constructed given the economic downturn. The special exception approval lapsed, which necessitated this Petition.

### SPECIAL EXCEPTION

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Robert Royer, a landscape architect accepted as an expert, testified via proffer Petitioner satisfied all requirements for special exception relief set forth at BCZR § 502.1 and the case law interpreting that provision. He noted the site is immediately adjacent to the sprawling T. Rowe Price campus, and a hotel is a much-needed and appropriate use for this location. As such the petition for special exception will be granted.

In its ZAC comment the DOP requested a high-quality opaque fence be provided at the rear of the site. Petitioner indicated it was amenable to that request, and a conceptual landscape plan (Exhibit 7) contains a rendering of such a fence. In addition, Petitioner indicated it would provide a painted crosswalk at the southeast corner of the hotel, as also requested by the DOP.

Finally, Petitioner verified proposed Sign #4 (the ground-mounted monument sign) will not be located within a Baltimore County easement and thus I believe the concern raised by the Bureau of DPR has been addressed.

### VARIANCES

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).

The property has irregular dimensions and visibility into the site is obscured by mature street trees along Painters Mill Road. As such the property is unique. If the BCZR were strictly interpreted Petitioner would suffer a practical difficulty since it would be unable to provide adequate signage for the new hotel. Finally, I find that the variances 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 lack of County and/or community opposition.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 7<sup>th</sup> day of **June, 2018**, that the Petition for Special Exception to use the described property for a hotel, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Variance: (1) to allow a total of 3 wall-mounted enterprise signs with maximum sign areas/faces of 94 sq. ft., 94 sq. ft. and 46 sq. ft. in lieu of the permitted 1 wall-mounted enterprise sign with a maximum sign area/face of 150 sq. ft.; and (2) to allow a freestanding enterprise sign with a sign area/face of 30 sq. ft. in lieu of the

maximum permitted sign area/face of 25 sq. ft., be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon 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. Prior to issuance of permits Petitioner must submit for approval by Baltimore County landscape and lighting plans for the site.
3. No temporary signage shall be permitted at the site.
4. Petitioner shall utilize the special exception granted above within five (5) years of the date hereof.

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

\_\_\_\_\_  
Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB/sln