

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(8867, 8903, 8905 Belair Road)	*	OFFICE OF
11 th Election District		
5 th Council District	*	ADMINISTRATIVE HEARINGS
W ARC PH Centre Owner VIII, LLC	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	Case No. 2018-0350-SPHA

* * * * *

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 W ARC PH Centre Owner VIII, LLC, legal owner (“Petitioner”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve an existing freestanding enterprise sign for a pad site.

A petition for variance seeks to allow a freestanding joint identification sign with copy for names of tenants/occupants a minimum of 3 inches in height in lieu of the required 8 inches. A two-sheet redlined site plan was marked and accepted into evidence as Petitioner’s Exhibit 1A & 1B.

Professional engineer Andrew Stine and Jeff Certosimo appeared in support of the requests. David H. Karceski, Esq. represented the Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (“DOP”). That agency did not oppose the request.

SPECIAL HEARING

The special hearing request pertains to an enterprise sign for a Chick-fil-A restaurant. The sign has been in place for several years and is similar to the one used by other Chick-fil-A restaurants in this area. The restaurant is adjacent to Belair Road at the outer edge of the parking lot for the overall shopping center. The restaurant is separated from the Giant grocery store located further back into the site by a distance of over 300 feet. The Chick-fil-A store has a designated ingress and egress area and separate parking for restaurant customers. In light of these characteristics I believe it qualifies as a “pad site,” which by long-standing County policy is entitled to its own enterprise sign. As such the petition for special hearing will be granted.

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).

The property is much deeper than it is wide, which makes it unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to list its tenants on the joint identification sign. 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 County and/or community opposition.

The DOP expressed concern with whether the proposed ground-mounted joint identification sign would interfere with adequate sight lines for motorists. Mr. Stine testified the

new sign will be located in essentially the same location as the existing shopping center sign, and he explained and provided photos showing it is located a sufficient distance from the roadway and would not pose a danger to motorists. The DOP also requested landscaping be provided at the base of the signs, and Petitioner presented a conceptual landscape plan (approved by Mr. Hermann) which reflects the requested landscaping will be installed in those areas. Pet. Ex. 5.

THEREFORE, IT IS ORDERED this 7th day of **August, 2018**, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve an existing freestanding enterprise sign for a pad site, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to allow a freestanding joint identification sign with copy for names of tenants/occupants a minimum of 3 inches in height in lieu of the required 8 inches, 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.

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