

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(4313 Ebenezer Road) *	OFFICE OF
11 th Election District	
5 th Council District *	ADMINISTRATIVE HEARINGS
W ARC PH Square Owner VIII, LLC *	FOR BALTIMORE COUNTY
<i>Legal Owner</i>	
Petitioner *	Case No. 2018-0351-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 Square Owner VIII, LLC, legal owner (“Petitioner”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to allow a freestanding enterprise sign on a pad site (Sign No. 3).

A petition for variance seeks: **(1)** to allow three ground-mounted freestanding joint identification signs on Ebenezer Road, each with a height of 6 ft., and sign area/faces of 24 sq. ft. in lieu of the one freestanding joint identification sign permitted with a sign area/face of 150 sq. ft. and a height of 25 ft. (Sign Nos. 2, 4, 5); **(2)** to allow freestanding joint identification signs with sign copy for names of tenants/occupants a minimum of 3 inches in height in lieu of the required 8 inches (Sign Nos. 1, 2, 4, 5); **(3)** to allow tenants in a multi-tenant commercial building a wall-mounted enterprise sign/signs with a total 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 Nos. B1, B2--200 sq. ft. in lieu of 71, C--65 sq. ft. in lieu of 33--, D1, D2--46 sq. ft. in lieu of 35--, H1-HE--115 sq. ft. in lieu of 48--, I--86 sq. ft. in lieu of 75--, M--62 sq. ft. in lieu of 29--, P--104 sq. ft. in lieu of 60--, Q1, Q2--252 sq. ft. in lieu of 199--, R--170 sq. ft. in

lieu of 69--, T--54 sq. ft. in lieu of 31--, U--94 sq. ft. in lieu of 52--, W--51 sq. ft. in lieu of 23-- , Y--91 sq. ft. in lieu of 79--, and BB--54 sq. ft. in lieu of 46--); (4) to allow a maximum of 5 wall-mounted enterprise signs for a single tenant in a multi-tenant commercial building in lieu of one wall-mounted and one canopy sign permitted for each exterior entrance for the tenant (Sign Nos. B1-B2, D1-D2, H1-H4, L1-L2, O1-O5, Q1-Q2, Z1-Z3); (5) to allow a total of four wall-mounted enterprise signs for a single tenant commercial building with no more than two signs on a single façade in lieu of the three signs permitted with no more than two signs on a single façade (Sign Nos. OB1-OB4); and (6) to allow a freestanding sign 31 ft. from another freestanding sign in lieu of the required 100 ft. (Sign Nos. 2, 3). A site plan was marked and accepted into evidence as Petitioner's Exhibit 1.

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

This case involves the Perry Hall Square Shopping Center. The special hearing request concerns an Outback Steakhouse, which is located on the periphery of the parking lot for the shopping center. The restaurant has its own parking and ingress/egress from Ebenezer Road. 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 has an irregular shape and a significant (approximately 30') grade change across the site. As such it 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 large shopping 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 County and/or community opposition. The DOP indicated in its ZAC comment that landscaping should be provided at the base of the signs. Petitioner submitted a plan showing proposed landscaping, and Jim Hermann (the County's landscape architect) noted thereon he was "ok with the conceptual landscape design." Pet. Ex. 5A & 5B.

THEREFORE, IT IS ORDERED this **8th** 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 allow a freestanding enterprise sign on a pad site (Sign No. 3), be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance: **(1)** to allow three ground-mounted freestanding joint identification signs on Ebenezer Road, each with a height of 6 ft., and sign area/faces of 24 sq. ft. in lieu of the one freestanding joint identification sign permitted with

a sign area/face of 150 sq. ft. and a height of 25 ft. (Sign Nos. 2, 4, 5); **(2)** to allow freestanding joint identification signs with sign copy for names of tenants/occupants a minimum of 3 inches in height in lieu of the required 8 inches (Sign Nos. 1, 2, 4, 5); **(3)** to allow tenants in a multi-tenant commercial building a wall-mounted enterprise sign/signs with a total 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 Nos. B1, B2--200 sq. ft. in lieu of 71, C--65 sq. ft. in lieu of 33--, D1, D2--46 sq. ft. in lieu of 35--, H1-HE--115 sq. ft. in lieu of 48--, I--86 sq. ft. in lieu of 75--, M--62 sq. ft. in lieu of 29--, P--104 sq. ft. in lieu of 60--, Q1, Q2--252 sq. ft. in lieu of 199--, R--170 sq. ft. in lieu of 69--, T--54 sq. ft. in lieu of 31--, U--94 sq. ft. in lieu of 52--, W--51 sq. ft. in lieu of 23--, Y--91 sq. ft. in lieu of 79--, and BB--54 sq. ft. in lieu of 46--); **(4)** to allow a maximum of 5 wall-mounted enterprise signs for a single tenant in a multi-tenant commercial building in lieu of one wall-mounted and one canopy sign permitted for each exterior entrance for the tenant (Sign Nos. B1-B2, D1-D2, H1-H4, L1-L2, O1-O5, Q1-Q2, Z1-Z3); **(5)** to allow a total of four wall-mounted enterprise signs for a single tenant commercial building with no more than two signs on a single façade in lieu of the three signs permitted with no more than two signs on a single façade (Sign Nos. OB1-OB4); and **(6)** to allow a freestanding sign 31 ft. from another freestanding sign in lieu of the required 100 ft. (Sign Nos. 2, 3), 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