

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(817 Maiden Choice Lane)		
1 st Election District	*	OF ADMINISTRATIVE
1 st Council District		
Kensington Associates, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2019-0021-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Kensington Associates, LLC, the legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) as follows: **(A) Variances requested from Section 450.4 Attachment 1:** (1) to permit one (1) wall-mounted enterprise sign affixed to a wall without a separate exterior customer entrance (sign VV); (2) to permit seven (7) wall-mounted enterprise signs affixed to a wall without a separate customer entrance (signs DD-JJ); (3) to permit six (6) wall-mounted enterprise signs affixed to a wall without a separate exterior customer entrance (signs U, WW, BBB, CCC, DDD and EEE); (4) to permit three (3) wall-mounted enterprise signs affixed to a wall without a separate exterior customer entrance (signs YY, ZZ and AAA); and (5) to permit a joint identification sign to display six (6) lines of text with a sign copy a minimum of five (5) inches in height in lieu of the permitted five (5) lines of text and required eight (8) inch height for sign copy (Sign HHH). **(B) Variance requested from Section 450.5.B.1.a:** (1) to permit enterprise signs on the non-vertical surface of an awning in lieu of on the vertical surface (signs BBB, CCC, DDD and EEE). **(C) Variance requested from Section 450.5.9.c:** (1) to permit two (2) signs on a mansard roof with a slope of 15 degrees that project 6.8 feet from their

surface in lieu of the requirement that the signs project no more than 4 feet from a mansard roof with a slope no less than 30 degrees (signs V and W). A site plan was marked as Petitioner's Exhibit 1.

Professional engineer Michael Gesell appeared in support of the petition. Justin Williams, Esq., represented Petitioner. No Protestants or interested citizens were 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 object to the majority of the variance requests although it expressed concern regarding the size of one proposed sign. That aspect of the ZAC comment will be discussed below.

The site is approximately 11.89 acres in size and zoned BL. The property is improved with a large strip shopping center anchored by a Giant grocery store. There are also several stand-alone commercial buildings on the site, with banking, medical and office tenants. Petitioner is undertaking a substantial improvement project at the center, and this case concerns signage for the existing and proposed buildings.

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 subject property has irregular dimensions and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to construct the proposed signs. 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 it would support a sign (identified on the plan as sign YY) on Building 4 no larger than 12 square feet in area. Mr. Gesell noted the wall-mounted sign would be located at least 150 feet from the dwellings located on the other side of Wilkens Ave. Counsel also noted the proposed sign would be the same size as the 50 sq. ft. sign on that façade containing the address of the building (i.e., “4660 Wilkens Ave”). In these circumstances I do not believe a 50 sq. ft. sign would be excessive, especially considering it will be affixed to a large, 3-story commercial building. I will include a condition below restricting the hours during which the sign may be illuminated, which should help to ensure the sign does not have a negative impact upon nearby homes.

THEREFORE, IT IS ORDERED, this 26th day of **September, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance as follows: **(A) Variances requested from Section 450.4 Attachment 1:** (1) to permit one (1) wall-mounted enterprise sign affixed to a wall without a separate exterior customer entrance (sign VV); (2) to permit seven (7) wall-mounted enterprise signs affixed to a wall without a separate customer entrance (signs DD-JJ); (3) to permit six (6) wall-mounted enterprise signs affixed to a wall without a separate exterior customer entrance (signs U, WW, BBB, CCC, DDD and EEE); (4) to permit three (3) wall-mounted enterprise signs affixed to a wall without a separate exterior customer entrance (signs YY, ZZ and AAA); and (5) to permit a joint identification sign to display six (6) lines of text with a sign copy a minimum of five (5) inches in height in lieu of the permitted five (5) lines of text and required eight (8) inch height for sign copy (Sign HHH). **(B) Variance requested from**

Section 450.5.B.1.a: (1) to permit enterprise signs on the non-vertical surface of an awning in lieu of on the vertical surface (signs BBB, CCC, DDD and EEE). **(C) Variance requested from Section 450.5.9.c:** (1) to permit two (2) signs on a mansard roof with a slope of 15 degrees that project 6.8 feet from their surface in lieu of the requirement that the signs project no more than 4 feet from a mansard roof with a slope no less than 30 degrees (signs V and W), 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. Sign YY on Building 4 (as shown on the site plan admitted as Petitioner's Exhibit 1) may be illuminated only between the hours of 7 a.m. - 8 p.m.

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