

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2010 York Road)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
York Aylesbury, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0130-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by York Aylesbury, LLC, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Section 450.4 of the Baltimore County Zoning Regulations (“BCZR”) to replace the 15 year old message board portion of an existing enterprise sign with a new LED digital message board. The remainder of the existing sign to remain as it is. The total area of the sign will be 207 square feet in lieu of the permitted 100 square feet. A site plan was marked as Petitioner’s Exhibit 1.

Mitch Kellman and Bob Yanega appeared in support of the petition. Timothy M. Kotroco, Esq. represented the Petitioner. Eric Rockel attended the hearing to obtain additional information regarding the request. 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”).

The site is approximately 4.950 acres in size and is zoned BM. Smyth Jewelers, which has been in business for over 100 years, is located at the subject property, which fronts onto York Road, an extremely busy commercial corridor. Petitioner proposes to replace only the changeable copy portion of the existing sign, although variance relief is required before it can do so.

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. Kellman noted that unlike most other commercial properties in the vicinity, the subject property has frontage on both York and Aylesbury Roads. As such, I believe the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to replace the existing changeable copy portion of the sign, which has been in place for over 15 years and is now technically obsolete. 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.

THEREFORE, IT IS ORDERED, this 8th day of **January, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to allow a freestanding enterprise sign with a face area of 207 square feet in lieu of the permitted 100 square feet, 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. The electronic changeable copy portion of the sign may have a maximum frequency of one message change per 15-second cycle.

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:dlw