

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(1737 Reisterstown Road)	*	OFFICE OF
3 rd Election District		
2 nd Council District	*	ADMINISTRATIVE HEARINGS
Target Corporation		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2019-0188-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 Target Corporation, legal owner (“Petitioner”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to permit a 51 sq. ft. sign on a parking garage structure. In addition, a Petition for Variance was filed pursuant to BCZR Section 450 to permit two (2) proposed wall-mounted signs on a façade with sign areas of 201 sq. ft. & 307 sq. ft., in lieu of the maximum allowed 150 sq. ft. A site plan was marked as Petitioner’s Exhibit 1.

Based on discussions at the hearing the Petition should also have included two additional variance requests: for three (3) wall-mounted signs on a single façade, in lieu of the maximum two (2) signs, and for four (4) signs on a building in lieu of the maximum three (3) signs. The order below will reflect this amendment.

Sean Miller and Todd Magiera appeared in support of the requests. Geoffrey W. Washington, Esq., represented Petitioner. Two citizens opposed the request. The Petition was advertised and posted as required by the BCZR. No substantive Zoning Advisory Committee (“ZAC”) comments were received from any of the reviewing county agencies.

This case concerns a Target store located on Reisterstown Road in Pikesville, near the Beltway interchange. Petitioner proposes to install new wall-mounted signage at the store and requires zoning relief to do so. The subject property consists of three separate parcels of land totaling nearly 10 acres. The property is zoned BL.

SPECIAL HEARING

The Petition for special hearing was filed because the sign regulations (BCZR §450) are silent concerning whether signage is permitted on a parking garage structure and (if so) what area limitations are applicable. As discussed at the hearing, the parking garage on the subject property is an accessory structure which serves the principal use on site. The garage is a commercial structure and there is no reason signage should not be permitted thereon. Petitioner proposes to install a Target bullseye sign/logo on the front of the parking structure. The proposed sign is 50.2 sq. ft. in size, which is significantly smaller in size than the 150 sq. ft. allowed for enterprise signs in the BL zone. 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).

Petitioner testified (via proffer) the property was unique due to the fact the Target store is situated to the rear of the site, approximately 500 ft. +/- from Reisterstown Road. In addition, even though the site is nearly 10 acres in size, Petitioner notes that the store has limited frontage on Reisterstown Road. I am persuaded by this testimony and believe the property qualifies as unique,

since other properties in the vicinity do not share these characteristics. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be unable to install updated signage at the store, as it has done at other store locations throughout the country. 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. As discussed in greater detail below, each of the signs at issue are wall-mounted, and in my opinion such signs pose much less of a traffic safety risk than freestanding signage on busy roadways.

The Len Stoler Lexus case (No. 2017-0023-SPHA) was discussed at the hearing. In that case a variance for a freestanding sign was denied, but I do not believe that dictates a similar result in this matter. The undersigned found in that case the property had no inherent characteristics which made it unique; in this case I believe the subject property has several characteristics which make it unique, as noted above. In addition, only wall-mounted signage is at issue in this case. The sign in the Len Stoler case was a freestanding pylon sign located on Reisterstown Road. As is apparent when driving on any major arterial roadway in Baltimore County, such freestanding signs not only cause “visual clutter” but also implicate traffic safety concerns. In fact, a similar variance request for a freestanding Target sign at this site was denied in case No. 2004-0547-SPHA, based on traffic safety concerns. I do not believe the proposed signage in this case is excessive or would jeopardize the safety of motorists/pedestrians, especially since the store and garage structure are barely visible from Reisterstown Road.

A question arose concerning the proper method of determining the face area of a sign. I agree with Protestants that the type of sign (i.e., freestanding vs. wall-mounted) should not change how the area is calculated. The specific issue again involved the Len Stoler Lexus case, where the Office of Zoning Review, pursuant to long-standing policy, included the entire face of the sign in

the area calculation, rather than just the Lexus logo. In that case this issue was dispositive, since Petitioner argued that only the logo should be counted, and it was 45 sq. ft. in area while the BCZR allows a 50 sq. ft. sign for new car dealerships.

Here, the Target bullseye logo on the front of the store and the bullseye and lettering on the left elevation are both in excess of the 150 sq. ft. allowed for wall-mounted enterprise signs in the BL zone. As such, Petitioner would require a variance whether or not the red background color of the sign is included in the area calculation. Petitioner stated that County staff advised the red color was an architectural finish which was not included in the area calculation. This, in my opinion, is at odds with the long-standing policy consistently applied by the zoning office as discussed in the Len Stoler Lexus case.

THEREFORE, IT IS ORDERED this 11th day of **March, 2019**, by this Administrative Law Judge, that the Petition for Special Hearing seeking relief from Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to permit a 51 sq. ft. sign on a parking garage structure, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from BCZR Section 450 to permit three (3) wall-mounted enterprise signs on a façade, four (4) wall-mounted enterprise signs on a single premises, with sign areas of 201 & 307 sq. ft. in lieu of the maximum allowed two (2) signs per façade, three (3) signs per premises, and 150' sq. ft. area, respectively, 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