

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(56 W. Timonium Road)		
8 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
3 <sup>rd</sup> Council District		
Timonium Business Center, LLC	*	HEARINGS FOR
Timonium Road Property, LLC		
<i>Legal Owners</i>	*	BALTIMORE COUNTY
Petitioners	*	<b>CASE NO. 2019-0197-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Timonium Business Center, LLC, and Timonium Road Property, LLC, legal owners of the subject property (“Petitioners”). Petitioners originally sought variance relief from Section 450.7.B.1.b of the Baltimore County Zoning Regulations (“BCZR”) to allow one hundred percent of the erected sign area of a permitted joint identification sign to be devoted to changeable copy in lieu of the maximum permitted 50%. Based on discussions at the hearing the petition was amended and a variance is sought to allow fifty-two percent (52%) of the sign to be devoted to changeable copy in lieu of the permitted 50%. A second variance request concerns the number of lines and size of text for the proposed sign.

The original site plan was marked as Petitioners’ Exhibit 1. An amended site plan was submitted with the revised zoning petition and will be marked as Petitioners’ Ex. 7. The amended plan eliminated several parking spaces from the drive aisle connecting the two portions of the site. The chart on the plan shows sufficient off-street parking is provided for all uses on site.

Professional engineer Nick Brader and Thomas Pilon appeared in support of the petition. David H. Karceski, Esq. represented Petitioners. Two interested citizens expressed concern about certain aspects of the case. 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.

The site is comprised of two separate parcels: Parcel 254, known as 56 W. Timonium Road, is approximately 48,078 square feet (1.1 Ac.) in size and Parcel 092, known as 2125-2249 Greenspring Drive, is approximately 377,097 sq. ft. (8.65 Ac.) in size. The Timonium Road property is zoned BM-IM and the Greenspring Drive property is zoned ML-IM. Each parcel is improved with a one-story commercial building and the properties are connected by a shared driveway. The proposed sign is located on the BM zoned parcel and it is those regulations which apply to this request.

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 Petitioners noted the building on Greenspring Drive is nearly one-half mile in length. Mr. Brader testified he has not encountered a property of similar size and configuration in over 30 years of practice as a professional engineer. As such the property is unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to provide adequate signage for this sprawling commercial property with multiple tenants. 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.

Mike Pierce stated he believed the sign area was calculated incorrectly on the site plan, and that the name of the center (*i.e.*, “Timonium Exchange”) should be considered part of the face area. Counsel agreed, and a revised site plan was submitted indicating the proposed sign is 150 sq. ft. in size. A 150 sq. ft. sign is permitted pursuant to BCZR Section 450 based on the building frontages on Timonium Road. Assuming the parcels and buildings are considered to be a single property or site (an issue discussed in greater detail below) I concur. The BCZR permits changeable copy to occupy up to 50% of the sign area, and the specifications for the proposed sign indicate the “viewing area” is 77 sq. ft., which comprises 52% of the total sign area.

Eric Rockel noted the commercial buildings are owned by different entities, and he questioned Mr. Brader concerning whether in fact there was a sufficient driveway or drive aisle connecting the properties. The amended site plan contains additional details concerning the driveway in question which is at least 20 ft. wide, as required for driveways with “two-way movements.” BCZR §409.4.A. As such, I do not believe this issue is an impediment to considering, for purposes of BCZR Section 450, the properties as connected.

With regard to the ownership issue, counsel stated that although the buildings are owned by different legal entities, both entities are in fact controlled by St. John Properties. Mr. Karceski noted (as an example) portions of the Hunt Valley Town Center are owned by Greenberg Gibbons while other portions of that shopping center are owned by Sears Roebuck. Despite having multiple owners the County considered the center in the aggregate when determining what signage would be allowed. I agree, and would note the court of appeals has long held the issue of ownership is usually “irrelevant” in a zoning case. *See, e.g., Richard Roeser v. Anne Arundel Co.*, 368 Md. 294, 305 (2002) (“ownership is normally irrelevant to zoning”).

THEREFORE, IT IS ORDERED, this **26th** day of **March, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to Section 450 of the Baltimore County Zoning Regulations (“BCZR”) to allow fifty-two percent (52%) of the proposed joint identification sign area to be devoted to changeable copy in lieu of the permitted fifty percent (50%), and to permit six (6) lines of text in lieu of the permitted five (5) lines, with text copy a minimum of three (3) inches in lieu of the required eight (8) inches, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition
2. Prior to issuance of permits Petitioners must submit for approval by the Baltimore County landscape architect a landscape plan for the site.
3. No temporary signage of any type shall be permitted on the premises.
4. The proposed sign shall not exceed the following brightness specifications: daytime 10,000 NITS maximum, nighttime 750 NITS maximum.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:sln:dlw