

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(800 Kenilworth Drive)		
9 th Election District	*	OF ADMINISTRATIVE
5 th Council District		
Kenilworth Limited Partnership	*	HEARINGS FOR
<i>Legal Owner</i>		
Jill Acquisition, LLC	*	BALTIMORE COUNTY
<i>Lessee</i>		
Petitioners	*	CASE NO. 2019-0214-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Kenilworth Limited Partnership, legal owner of the subject property and Jill Acquisition, LLC, lessee (“Petitioners”). Petitioners are requesting variance relief from Section 450.4 of the Baltimore County Zoning Regulations (“BCZR”) to allow a wall-mounted enterprise sign for a tenant in a multi-tenant building to be located on a façade without a separate exterior customer entrance. A site plan was marked as Petitioners’ Exhibit 1.

Landscape architect Michael Pieranunzi and Wayne Zinn appeared in support of the petition. David H. Karceski, Esq. represented Petitioners. 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 opposed the request.

The site is approximately 8.12 acres (354,016 square feet) in size and is zoned BM. The Kenilworth shopping center is located at the site. J. Jill, a clothing store, is a new tenant at the mall and will lease approximately 3,000 sq. ft. of retail space. The lessee will not be identified on either of the joint identification signs on the property. Lessee seeks approval for a wall-mounted enterprise sign but requires a variance since there is not a customer entrance on the

façade where the sign would be installed.

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 grade change (approximately 15 ft.) across the site. As such the property is unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to have a sign for the J. Jill store. 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.

In its ZAC comment the DOP opposed the request, believing that sufficient signage exists on the site. A similar variance request by Trader Joe's (for a sign on a wall without a customer entrance) was denied recently in Case No. 2017-259-A. But I think the facts in this case are much different than those presented in the 2017 case. Trader Joe's already had three signs (a wall-mounted enterprise sign on the front of the store and a prominent listing on both of the joint identification signs) and was seeking a fourth sign. The lessee here has no signage at the site and is not listed on either of the joint identification signs. Unlike the sign at issue in the Trader Joe's case, the proposed J. Jill sign would not be visible from Kenilworth Drive or the residential properties along that roadway. In fact, the sign would only be visible to motorists/customers who travel to the rear of the site closest to the Beltway. In these circumstances I do not believe the proposed sign would be excessive or create visual clutter, and the request will therefore be granted.

THEREFORE, IT IS ORDERED, this **18th** day of **March, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Section 450.4 of the Baltimore County Zoning Regulations (“BCZR”) to allow a wall-mounted enterprise sign for a tenant in a multi-tenant building to be located on a façade without a separate exterior customer entrance, 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.

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