

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(1726 Reisterstown Road)		
3 <sup>rd</sup> Election District	*	OF ADMINISTRATIVE
2 <sup>nd</sup> Council District		
Blue Ocean Realty, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2019-0231-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 Blue Ocean Realty, LLC, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Sections 303, 409 and 450 the Baltimore County Zoning Regulations (“BCZR”) as follows: **(1)** to permit 607 parking spaces in lieu of the required 835 parking spaces; **(2)** to permit 3 stacking spaces for a bank drive through facility for the first station in lieu of the required 5 spaces, or in the alternative, to provide a total of 6 stacking spaces for two stations in lieu of the required 7 stacking spaces; **(3)** to permit a front yard setback of 20 feet in lieu of the required 53.5 feet for front yard averaging; **(4)** to permit a total of 6 bicycle parking spaces in lieu of the 34 required; **(5)** to permit a new “Doubletree by Hilton” Wall Mounted Enterprise Sign (Sign #1) on a wall with no separate exterior customer entrance; **(6)** to permit a new “Doubletree by Hilton” Wall Mounted Enterprise Sign (Sign # 3) on a wall with no separate exterior customer entrance; **(7)** to permit a new “Doubletree by Hilton” Wall Mounted Enterprise Sign (Sign # 5) on a wall with no separate exterior customer entrance; **(8)** to permit a new “Doubletree by Hilton” Wall Mounted Enterprise Sign (Sign # 6) on a wall with no separate exterior customer entrance; and **(9)** to amend the site plan approved and relief granted in previous zoning cases involving the subject property.

A redline site plan was marked as Petitioner's Exhibit 1.

Landscape architect Matthew Bishop appeared in support of the petition. Timothy M. Kotroco, Esq. represented Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee ("ZAC") comments were received from the Bureau of Development Plans Review ("DPR"), the Department of Planning ("DOP") and the State Highway Administration ("SHA"). None of the reviewing agencies opposed the request.

The site is approximately 10.413 acres in size and is split-zoned BL/DR 16. The Pikesville Hilton has operated for many years at this location. Petitioner recently purchased the property and is undertaking significant renovations to the site. Petitioner originally proposed a freestanding sign facing the Beltway, but due to concerns raised by the community and the DOP that request was withdrawn.

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 topographic changes across the site. As such the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be unable to complete the proposed renovation. 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 Bureau of DPR noted there may be a flood plain located on the site, and Mr. Bishop described a small channel with water located near the boundary of the site. Mr. Bishop explained that an environmental assessment and investigation will be performed in connection with the DRC review and processing of development plans for the proposed improvements. I agree with Mr. Bishop that this issue, while certainly important, is best addressed during the development phase of the project rather than at this early stage.

THEREFORE, IT IS ORDERED, this 5<sup>th</sup> day of **June, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to the Baltimore County Zoning Regulations (“BCZR) as follows: **(1)** to permit 607 parking spaces in lieu of the required 835 parking spaces; **(2)** to permit a total of 6 stacking spaces for two stations in lieu of the required 7 stacking spaces for a bank drive through facility; **(3)** to permit a front yard setback of 20 feet in lieu of the required 53.5 feet for front yard averaging; **(4)** to permit a total of 6 bicycle parking spaces in lieu of the 34 required; **(5)** Sign #1-to permit a new “Doubletree by Hilton” Wall Mounted Enterprise Sign on a wall with no separate exterior customer entrance; **(6)** Sign #3-to permit a new “Doubletree by Hilton” Wall Mounted Enterprise Sign on a wall with no separate exterior customer entrance; **(7)** Sign #5-to permit a new “Doubletree by Hilton” Wall Mounted Enterprise Sign on a wall with no separate exterior customer entrance; **(8)** Sign #6-to permit a new “Doubletree by Hilton” Wall Mounted Enterprise Sign on a wall with no separate exterior customer entrance; and **(9)** to amend the site plan approved and relief granted in previous zoning cases involving the subject property, 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. Prior to issuance of permits Petitioner must submit for approval by Baltimore County landscape and lighting plans for the site.
  3. No temporary signs, banners and/or flags shall be permitted on the property.
  4. All development on the site must comply with the “Freestanding” design guidelines found in CMDP (pp. 106-107).

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