

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(1600 Sparrows Point Blvd.)		
15 th Election District	*	OFFICE OF
7 th Council District		
TradePoint Atlantic, LLC,	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Two Farms, Inc.,	*	FOR BALTIMORE COUNTY
<i>Lessee</i>		
Petitioners	*	Case No. 2019-0365-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of a Petition for Variance filed on behalf of TradePoint Atlantic, LLC, legal owner, and Two Farms, Inc., lessee (“Petitioners”). A Petition for Variance was filed pursuant to Section 450.4 Attachment 1.5(b)(VII) of the Baltimore County Zoning Regulations (“BCZR”) to allow a sign height of 35 ft. in lieu of the permitted 25 ft. A three-sheet site plan was marked and accepted into evidence as Petitioners’ Exhibit 1A-1C.

Jeff Bainbridge and David Taylor, Jr., landscape architect with Dewberry Engineers, Inc., appeared in support of the request. David H. Karceski, Esq. represented the Petitioner. Ed Crizer and Francis Taylor, who live nearby, 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 County reviewing agencies.

This case involves the sprawling TradePoint Atlantic project which is being constructed on the grounds of the former Bethlehem Steel facility. The owner describes the project as “one of the largest and most strategically significant intermodal global logistics hubs in the country.” See Petitioners’ Exhibit 5. The overall site is 3,100+ acres in size, although the specific property at issue in this case is ±3.68 acres and zoned MH-IM. The lessee proposes to operate a Royal

Farms fuel service station and convenience store/carryout on the property, a use permitted by right in the MH-IM zone. The sole zoning request concerns the height of one of the freestanding enterprise signs.

Messrs. Crizer and Taylor, both of whom live in the adjacent residential community, oppose the variance request. They stated the proposed 35 ft. high sign would be visible from the Baltimore Beltway, and that the variance was requested to attract to the site motorists/trucks traveling on that highway. They testified the volume of truck traffic in the area has increased significantly since TradePoint has begun operations, and they believe their community would be adversely impacted if additional truck traffic was diverted from I-695 to the site. They also are concerned that overnight truck parking would be permitted, and they testified a truck stop near their neighborhood has for years been plagued with criminal activity.

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).

As noted by Petitioners, the property is most likely the largest contiguous parcel in Baltimore County under common ownership. 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 a freestanding sign that would serve a “way finding” function in this extremely busy commercial/industrial hub. Finally, I find based on the proffered testimony 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.

THEREFORE, IT IS ORDERED this **23rd** day of **August, 2019**, by this Administrative Law Judge, that the Petition for Variance pursuant to Section 450.4 Attachment 1.5(b)(VII) of the Baltimore County Zoning Regulations (“BCZR”) to allow a sign height of 35 ft. in lieu of the permitted 25 ft. (for one freestanding enterprise sign), 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. Petitioners may not operate on the subject property a “truck stop” as that term is defined in BCZR Section 101.1.

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