

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(3300 Dundalk Avenue)		
12 th Election District	*	OFFICE OF
7 th Council District		
American Legion Dept. of Maryland	*	ADMINISTRATIVE HEARINGS
Dundalk Post 38, Inc.,		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2019-0367-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 American Legion Dept. of Maryland Dundalk Post 38, Inc., legal owner (“Petitioner”). A Petition for Variance was filed pursuant to §§ 450.4.1.a and 450.7.B.1.b from the Baltimore County Zoning Regulations (“BCZR”) to erect a freestanding changeable copy sign in an ML-IM zone as part of a permitted enterprise sign accessory to a community building with a maximum area face of 29.63 sq. ft. in lieu of the permitted 25 sq. ft., height of 10 ft. in lieu of the permitted 6 ft., and for a changeable sign area of 70% in lieu of the maximum 50%.

Professional land surveyor Brian R. Dietz with Dietz Surveying Co. appeared in support of the request. Edward C. Covahey, Jr., Esq. represented the Petitioner. There were no protestants or interested citizens in attendance. 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.

The subject property is 7.59 acres in size and zoned ML-IM. The site plan prepared by Mr. Dietz was marked and admitted as Petitioner’s Exhibit 8. The American Legion post is located on the property. Counsel noted that membership has been declining in recent years.

Petitioner hopes that a modern sign will increase its presence in the area and attract new members and community groups wishing to utilize the assembly hall.

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).

The property has an irregular shape and mature vegetation along Dundalk Avenue partially obscures the view into 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 provide adequate “way finding” signage for the subject property. 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 lack of County and/or community opposition.

THEREFORE, IT IS ORDERED this 19th day of **August, 2019**, by this Administrative Law Judge, that the Petition for Variance pursuant to Sections 450.4.1.a and 450.7.B.1.b of the Baltimore County Zoning Regulations (“BCZR”) to erect a freestanding changeable copy sign in an ML-IM zone as part of a permitted enterprise sign accessory to a community building with a sign face/area of 29.63 sq. ft. in lieu of the maximum 25 sq. ft., height of 10 ft. in lieu of the maximum 6 ft., and an electronic changeable copy sign area of 70% in lieu of the maximum 50%, 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. Petitioner must comply with BCZR Section 450 concerning the maintenance and operation of the electronic changeable copy portion of the freestanding sign.

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:slh