

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(5235 King Avenue)		
14 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
6 <sup>th</sup> Council District		
5235 King Avenue, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2019-0498-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 5235 King Avenue, LLC, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Section 450.4 of the Baltimore County Zoning Regulations (“BCZR”): (1) for two (2) wall mounted enterprise signs in lieu of the maximum allowed one sign; and (2) a wall mounted enterprise sign of 24.94 sq. ft. in lieu of the maximum allowed 5 sq. ft. A site plan was marked as Petitioner’s Exhibit 1.

John Dell’Erba appeared in support of the petition. Jennifer R. Busse, Esq. represented Petitioner. Matt Sichel, the professional engineer who drafted and sealed the site plan also attended the hearing. 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 site is approximately 3.04 acres in size and is zoned O3. Ms. Busse proffered the following facts. The Petitioner, Medstar Health, operates a Medicaid Health center in the subject property. The building can be accessed from either King Avenue or Franklin Square Boulevard. The building is set back substantially from either street and is heavily wooded on the Franklin Boulevard side. The site of the building therefore makes it difficult for their clients to identify

the address from either street, which is why they are requesting the larger signage. Street level photos from both roads as well as an aerial photo were admitted as Exhibits 2, 3, and 4.

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 above, the property has frontage on two public roads but is set back substantially from each. As such the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because its clients would continue to have difficulty locating the building from either road. 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.

THEREFORE, IT IS ORDERED, this 17<sup>th</sup> day of **December, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to the Baltimore County Zoning Regulations: (1) for two (2) wall mounted enterprise signs in lieu of the maximum allowed one sign; and (2) a wall mounted enterprise sign of 24.94 sq. ft. in lieu of the maximum allowed 5 sq. ft., 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.

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

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Signed  
PAUL M. MAYHEW  
Managing Administrative Law Judge  
for Baltimore County

PMM/sln