

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
NE corner of Maiden Choice Lane and Wilkens Avenue	*	DEPUTY ZONING
13 th Election District	*	COMMISSIONER
1 st Councilmanic District (4622 Wilkens Avenue)	*	FOR BALTIMORE COUNTY
Kensington Associates, LLC	*	
<i>Legal Owner</i>	*	
Giant of Maryland, LLC	*	CASE NO. 2011-0137-A
<i>Contract Lessee</i>	*	

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by Mike Cardany, agent and authorized signatory on behalf of the legal owner of the subject property, Kensington Associates, LLC, and the proposed contract lessee, Giant of Maryland, LLC, through one of its Senior Managers of Construction, Juan Carlos Vivas, and its attorney, Charles B. Marek, III, Esquire of Gildea and Schmidt, LLC. Petitioner is requesting Variance relief from Section 450.4 Attachment 1.5.d of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit 12 total wall-mounted enterprise signs for the existing Giant supermarket, 11 to be located on the front building face and 1 located on the side building face in lieu of the 1 permitted, and for such other and further relief as may be required by the Zoning Commissioner. The subject property and requested relief are more fully described on the site plan and signage details that were marked and accepted into evidence as Petitioner’s Exhibits 1 and 2, respectively.

Appearing at the public hearing in support of the Petition were Ronald Brumbaugh, Senior Manager of Construction for Giant, Mark Johnston of Gutcheck, Little and Weber, the civil engineer for the project, and Alan Nethen of Gable Signs. Charles B. Marek, III, Esquire represented Petitioner at the hearing. There were no Protestants or other interested persons present

at the hearing. As a preliminary matter, Mr. Marek requested an amendment to the Petition for Variance to reduce the wall mounted signage by one (1) sign along the front building face. The new request was for ten (10) signs on the front building face and one (1) on the side building face. This amendment, making the matter a lesser variance than requested and published, was granted.

Continuing with the Petition for Variance aspects of the relief requested, Mr. Marek proffered the evidence presented at the hearing, and the proffer and exhibits were accepted into the record of the case. The property in question is the “Wilkens Beltway Plaza” near the intersection of Wilkens Avenue and Maiden Choice Lane. To the north of the center is the Charlestown retirement community, to the west and south are office buildings and to the east is the Our Lady of Victory church and school. The property is accessed by three public streets that dead end into the center, Grouse Court, Pigeon Court and Elm Ridge Avenue. The site is approximately 8 acres and is zoned B.L. The site is improved with a multi-tenant retail building and two stand alone PAD sites. The Giant supermarket is the largest tenant in the site and considered the “anchor” store. In addition to being the anchor store, testimony revealed that Giant has a total of twelve (12) stores in Baltimore County and employs roughly 1200 people. The chain is an important economic driver of the County, as well as the State of Maryland, and works with local businesses and farms.

Giant is going through a global re-imagining of its stores, whereby the longstanding “big G” signage is being replaced with a “fruit-bowl” type logo and associated Giant lettering. As part of this change over from the old trademark to the new, Giant is upgrading not only the sign package, but also has allocated a significant sum to upgrade the interior of these stores. This re-imagining to the “fruit-bowl” logo and associated signage will take place not only in Baltimore County, but across Maryland, Virginia, Delaware any the other markets of Giant.

Testimony also focused on the aspects particular to the property that make it appropriate for variance relief. The property in question is well hidden and buffered by its surroundings and the significant impaired visibility is noted in the Zoning Advisory Comment from the Office of Planning. The access from three public roads that dead end into the center is unusual as there is no frontage on the collector roads. Additionally, there is a significant grade change moving eastward from Maiden Choice Lane into the site and, combined with the significant vegetation, makes the center barely visible from one of the two traffic bearing roads. Likewise, the sightlines into property are also significantly impaired along Wilkens Avenue by the vegetation and office buildings surrounding the Giant. Pictures taken along Wilkens Avenue and Maiden Choice Lane were marked and accepted into evidence as Petitioner's Exhibits 5 and 6 to demonstrate this limitation.

These peculiar aspects of the property work in concert to create a practical difficulty for the supermarket, which is the inability to adequately alert the customers to their presence in the center as well as their multitude of services. This leads to decreased economic vibrancy of the store and the center as a whole. In addition, due to the consolidation of uses under one roof, these stores with large building footprints (i.e. big box) are unable to adequately advertise their services. I believe that the granting of the variance is able to remedy this practical difficulty. Allowing multiple signs will give customers an opportunity to recognize the store from various points along their drive and not just one vantage point.

Moreover, the testimony and evidence also showed that the granting of the variance would be in the spirit and intent of the Zoning Regulations. The sign regulations do attempt to allow stores to adequately advertise their services, and I believe that this relief is in keeping with that and other goals of the signage regulations. Lastly customer recognition and identification of the

stores is important as this re-imaging is occurring not just in Baltimore County, but throughout all of Giant's operation across counties and states, including Maryland, Virginia, Delaware and the District of Columbia.

The testimony also bears that the granting of the variance will be in the interest of the public. The new sign package will utilize light-emitting-diode (LED) technology for illumination, thereby reducing the energy consumption by roughly ninety percent (90%). The freestanding signage will also assist the flow of traffic as it will alert customers to the presence of the store and give them the time they need to properly and safely adjust their driving to accommodate their supermarket trip.

Finally, the Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated November 5, 2010 which indicates that they have no objection to the requested variance. The modified signage appears to be more attractive than the existing signage. The proposed wall mounted signs will not be highly visible from the public right-of-way.

Pursuant to the advertisement, posting of the property and public hearing on the Petitions held, and for the reasons set forth above, the Petition for Variance as amended should be granted.

THEREFORE, IT IS ORDERED this 8th day of December, 2010 by this Deputy Zoning Commissioner that Petitioner's Variance request from Section 450.4 Attachment 1.5.d of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit 11 total wall mounted enterprise signs for the existing Giant supermarket, 10 to be located on the front building face and 1 located on the side building face in lieu of the 1 permitted be and is hereby **GRANTED**, subject to the following:

1. Petitioner may apply for permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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

____SIGNED_____
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz