

IN RE: PETITION FOR VARIANCE

SE/Side of Philadelphia Road, 310' SW
of the c/line of Rossville Boulevard
7th Election District
15th Councilmanic District
(8665 Philadelphia Road)

Golden Ring (E and A), LLC, *Legal Owner*
Giant of Maryland LLC, *Contract Purchaser* *
Petitioners

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY

CASE NO. 2011-0296-A

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for Baltimore County for consideration of a Petition for Variance filed by the Petitioner, Giant of Maryland, LLC through one of its Senior Managers of Construction, Scott Haley, and its attorney, Charles B. Marek, III of Smith, Gildea and Schmidt, LLC. The Petition was also consented to by the property owner, Golden Ring (E&A), LLC by Matt Pastor, its agent and authorized signatory. Petitioner requested a variance to permit 9 wall-mounted enterprise signs for the existing Giant supermarket in lieu of the permitted 1 pursuant to B.C.Z.R. Section 450.4 Attachment 1.5a. The subject property and requested relief are more particularly described on the site plan and sign elevations submitted, which were accepted into evidence and marked 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 represented the Petitioner at the hearing. There were no Protestants or other interested persons present at the hearing.

Mr. Marek proffered the evidence presented at the hearing, and the proffer and exhibits were accepted into the record of the case. T he property in question appears as an outparcel of

“Golden Ring Mall” near the intersection of Philadelphia Road and Rossville Boulevard. The site is approximately 12.83 acres and is zoned BM. The site is improved with a multi-tenant retail building and several outlying pad sites and is accessed from Rossville Boulevard and a private drive which connects to Rossville Boulevard. Testimony revealed that Giant has a total of 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 reimagining 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 reimagining to the “fruit-bowl” logo and associated signage will take place not only in Baltimore County, but across Maryland, Virginia, Delaware and the other markets of Giant.

Testimony also focused on the aspects particular to the property that make it appropriate for variance relief. The property is a unique shape, as it is narrow along the frontage for Philadelphia Road. This narrowness, particularly combined with a depth of 740 feet to building face of the Giant, is a significant limiting factor for the visibility of the store. The visibility is further challenged by the heavily wooded area that exists between the site and Rossville Boulevard, which can be seen in the aerials and street level photos submitted. In addition, the property also features a significant grade change between itself and Golden Ring Mall that hides the property while traveling northeast on Philadelphia Road. Moreover, the property in the instant matter was the subject of Zoning Case No. 86-482-A, which granted a variance of B.C.Z.R. Section 409.2(b) 3, 5, and 6, to permit a total of 784 spaces in lieu of the required 945 spaces. As

the granting of this past variance indicates, the property was previously determined by the Zoning Commissioner as unique. Based on the characteristics of the property discussed herein, there is ample evidence in the record of the site's uniqueness.

These peculiar aspects of the unique 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 stores) 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 signs at multiple locations along the building face.

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. Also, Giant is utilizing only 267 square feet of signage over 9 signs when it is permitted to erect 1 sign of 594 square feet. Lastly, customer recognition and identification of the stores is important as this reimagining 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 90% when compared to traditional back-lit neon signage. The signage will also assist the flow of traffic as it will help 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.

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 should be granted.

THEREFORE, IT IS ORDERED by this Administrative Law Judge for Baltimore County, this 26th day of May, 2011 that the Petition for Variance from Section 450.4 Chart 1.5.a to permit 9 wall-mounted enterprise signs as shown on Petitioner's Exhibit 2; be and is hereby GRANTED, subject to the following restriction:

1. Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners 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

TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK:pz