

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
SW corner of Lionhead Court and		
Franklin Square Drive	*	OFFICE OF ADMINISTRATIVE
14 <sup>th</sup> Election District		
6 <sup>th</sup> Council District	*	HEARINGS FOR
<b>(100 Lionhead Court)</b>		
	*	BALTIMORE COUNTY
Consolidated Franklin Square, LLC		
Todd A. Tilson, Member		
<i>Petitioner</i>	*	<b>CASE NO. 2012-0112-A</b>
* * * * *		

**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 legal owner of the property, Consolidated Franklin Square, LLC. The Petitioner is requesting Variance relief from Section 450.4, (Attachment 1, 6) of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a free-standing identification sign (for an apartment complex) with a maximum sign area/face of 33 square feet +/- and a maximum height of 16 feet +/- in lieu of the permitted 25 square feet sign area/face and height of 6 feet. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the public hearing in support of the variance request was David L. Martin, landscape architect, from Martin & Phillips Design Associates, Inc. Patricia Malone, Esquire represented the Petitioner. The file reveals that the Petition was properly advertised and the site was properly posted as required by the B.C.Z.R. There were no Protestants or other interested persons in attendance, and the file does not contain any letters of protest and/or opposition.

The Zoning Advisory Committee (ZAC) comments were received and are made a part of the record of this case. No County agencies or departments submitted any substantive comments.

Considering all of the testimony and evidence presented, I am persuaded to grant the requested variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Specifically, as shown on the aerial photographs marked as Petitioner's Exhibit 2, the subject property consists of six (6) apartment buildings which sit far off of Franklin Square Drive. Lionhead Court is a private road, and the apartments are situated at the end of this narrow and long road, surrounded by woodlands. Petitioner also submitted color photographs which depict the present sign for the complex, and it is obvious that the view of the sign for passing motorists is obstructed by both the Franklin Square Hospital sign and a large MTA bus stand/shelter that was recently constructed. See Petitioner's Exhibit 3A-G. In these circumstances, I believe Petitioner has made the requisite showing of uniqueness, and if the B.C.Z.R. were strictly enforced the apartment owner would have almost no means available to identify his complex.

I further find that the granting of the relief as set forth herein can be accomplished without injury to the public health, safety, and general welfare. Therefore, in all manner and form, I find that variance relief can be granted in accordance with the requirements of Section 307 of the B.C.Z.R. as articulated in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and after considering the testimony and evidence offered by Petitioner, I find that Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED, this 21<sup>st</sup> day of December, 2011 by this Administrative Law Judge that Petitioner's Variance request from Section 450.4, Attachment 1, 6 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a free-standing identification sign (for an apartment complex) with a maximum sign area/face of 33 square feet +/- and a maximum

height of 16 feet +/- in lieu of the permitted 25 square feet sign area/face and height of 6 feet, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioner may apply for a building permit and may be granted same upon receipt of this Order, however the Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the thirty (30) day appellate process from this Order has expired. If for whatever reason, this Order is reversed, the Petitioner will 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.

JEB:dlw

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County