

IN RE: **PETITION FOR VARIANCE**
W side of Loch Raven Blvd., 224
feet S of the c/l of Taylor Avenue
9th Election District
5th Council District
(6830 Loch Raven Blvd.)

McDonald's Corporation
Petitioner

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS FOR
* FOR BALTIMORE COUNTY
* **CASE NO. 2012-0136-A**

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for consideration of a Petition for Variance filed by the owner of the subject property, McDonald's Corporation ("McDonald's" or "Petitioner"), through its attorneys, Stanley S. Fine, Esquire, and Caroline L. Hecker, Esquire, for the property located at 6830 Loch Raven Blvd. The Petitioner requests relief from the following sections of the Baltimore County Zoning Regulations (B.C.Z.R.):

- 450.4 Attachment 1, 5(a)(VI) to permit 5 wall-mounted enterprise signs on the building facades in lieu of the permitted 3 signs; and
- 450.4 Attachment 1, 3(b)(VII) to permit a free-standing directional sign of 10.7 ft. in height in lieu of the permitted 6 ft.; and
- 450.4 Attachment 1, 3(b)(VII) to permit two (2) directional signs of 11.2 ft. in height in lieu of the permitted 6 ft. ; and
- 450.4 Attachment 1, 3(II) to permit a canopy-type directional sign in lieu of the permitted wall-mounted or free-standing sign; and
- 450.5.B.3.b to permit erection of the sign above the face of the canopy in lieu of its erection on the face of the canopy;

- 450.4 Attachment 1, 5(b)(V) to permit a free-standing enterprise sign in of 82.37 sq. ft. in lieu of the permitted 75 sq. ft.; and
- 450.5 Attachment 1, 5(f)(VII) to permit two (2) free-standing order boards of 6.75 ft. in height in lieu of the permitted 6 ft.

The subject property and requested relief are more particularly described on the Plat to Accompany Zoning Petition submitted and the elevation and signage details which were accepted into evidence as Petitioner's Exhibits 1 and 5A through 5C, respectively.

Appearing at the requisite public hearing in support of the request were Caroline L. Hecker, Esquire, and Stanley S. Fine, Esquire, attorneys for McDonald's; Jeffrey Bell, Area Construction Manager for McDonald's Corporation; and Robert Goldman, the architect who designed the remodeled restaurant on this property. Michael Pierce, a concerned citizen, also appeared at the hearing.

Testimony and evidence presented at the hearing discloses that McDonald's is the current owner of the property known as 6830 Loch Raven Blvd. The existing structure was constructed in 2000 pursuant to the decision of the Zoning Commissioner in Case No. 00-042-XA. McDonald's has recently remodeled this restaurant to reflect the new design of McDonald's restaurants and to improve the efficiency of its operations. The remodeled restaurant features two drive-thru lanes, many "green building" features, and a contemporary, upscale look. The remodeled restaurant also retains the existing "Playplace" and increases the seating capacity from approximately 103 seats to approximately 130 seats.

Mr. Goldman was accepted as an expert in site engineering and testified that the unique features of the site impose certain constraints on the existing restaurant that make the requested variances necessary. The McDonald's site, shown on the photographs submitted by Petitioner

(Petitioner's Exhibit 2), is located along a very busy commercial corridor near the intersection of Loch Raven Blvd. and Taylor Ave. As a condition of the original zoning approval for the restaurant, the building was set back further from Loch Raven Blvd. than would otherwise be required, impairing the visibility of the restaurant to passing motorists. Due to these unique features of the site, the requested signage variances are necessary in order to identify the McDonald's restaurant to passing motorists and to safely direct traffic in and around the site.

Petitioner seeks variances from B.C.Z.R. Section 405.4 Attachment 1, 5(a)(VI) to permit five (5) wall-mounted enterprise signs on building facades in lieu of the permitted three (3) signs; from B.C.Z.R. Section 450.4 Attachment 1, 3(b)(VII) to permit a directional sign of 10.7 ft. in height in lieu of the permitted 6 ft.; B.C.Z.R. Section 450.4 Attachment 1, 3(b)(VII) to permit two (2) directional signs of 11.2 ft. in height in lieu of the permitted 6 ft.; B.C.Z.R. Section 450.4 Attachment 1, 3(II) to permit a canopy-type directional sign in lieu of the permitted wall-mounted or free-standing sign; and B.C.Z.R. Section 450.5.B.3.b to permit erection of the sign above the face of the canopy in lieu of its erection on the face of the canopy; B.C.Z.R. Section 450.4 Attachment 1, 5(b)(V) to permit a free-standing sign of 82.37 sq. ft. in lieu of the permitted 75 sq. ft.; and B.C.Z.R. Section 450.5 Attachment 1, 5(f)(VII) to permit two (2) free-standing order boards of 6.75 ft. in height in lieu of the permitted 6 ft. Due to the many other commercial establishments in the vicinity of the site, combined with the fact that the existing building is set back significantly from Loch Raven Blvd., these variances are necessary in order for the restaurant to be visible to motorists and in order to safely direct traffic in and around the McDonald's pad site. In addition, these signs are McDonald's standard signage plan, and the restaurant at this location would deviate from the standard style of other McDonald's restaurants if the proposed signs were not permitted.

Mr. Pierce testified that the proposed electronic changeable copy sign on the free-standing sign structure threatened to create a visual distraction to motorists along Loch Raven Blvd. due to

its height on the sign structure and recommended that this reader board be lowered to the height of the existing manual changeable copy sign on the free-standing sign structure. Petitioner agreed with this recommendation and amended its variance requests at the hearing to request a variance from Section 450.3 to permit the changeable copy sign to be erected more than one foot below the enterprise sign on the free-standing sign structure. A redlined copy of the signage plan was submitted at the hearing showing the proposed location of the electronic changeable copy sign in the same location of the existing manual changeable copy sign.

After due consideration of the testimony and evidence presented, it is clear that the requested variances meet the standards set forth in B.C.Z.R. § 307. The Property is unique due to the location of the existing building on the lot and due to the location of other commercial structures in the vicinity which obstruct the visibility of the site. In light of these unique features of the Property, I find that the Petitioner has satisfied its burden at law. The constraints imposed by these features would create a practical difficulty for the Petitioner if strict compliance with the provisions of the B.C.Z.R. were required. I further find that the relief requested meets the spirit and intent of the B.C.Z.R, and I will therefore grant the requested variances.

Pursuant to the advertisement, posting of the property, and public hearing on these petitions held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED this 12th day of January, 2012 that the Petition for Variance from the following sections of the B.C.Z.R.:

- 405.4 Attachment 1, 5(a)(VI) to permit five (5) wall-mounted enterprise signs on building facades in lieu of the permitted three (3) signs; and
- 450.4 Attachment 1, 3(b)(VII) to permit a directional sign of 10.7 ft. in height in lieu of the permitted 6 ft.; and

- 450.4 Attachment 1, 3(b)(VII) to permit two (2) directional signs of 11.2 ft. in height in lieu of the permitted 6 ft.; and
- B.C.Z.R. Section 450.4 Attachment 1, 3(II) to permit a canopy-type directional sign in lieu of the permitted wall-mounted or free-standing sign; and
- 450.5.B.3.b to permit erection of the sign above the face of the canopy in lieu of its erection on the face of the canopy; and
- 450.4 Attachment 1, 5(b)(V) to permit a free-standing sign of 82.37 sq. ft. in lieu of the permitted 75 sq. ft.; and
- 450.5 Attachment 1, 5(f)(VII) to permit two (2) free-standing order boards of 6.75 ft. in height in lieu of the permitted 6 ft.; and
- 450.3 to permit the changeable copy sign to be erected more than one foot below the enterprise sign on the free-standing sign structure, all as shown on Petitioner's Exhibits 1 and 5A through 5C, as amended at the hearing,

be and are hereby GRANTED;

IT IS FURTHER ORDERED that the Petitioner shall obtain any necessary permits for promotional banners or other temporary signs to be erected on the property and shall comply with all time limits for such signs.

The relief granted is subject to the following:

1. 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 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