

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
N side of Perring Manor Road at corner		
of McClean Boulevard	*	OFFICE OF
9 th Election District		
5 th Council District	*	ADMINISTRATIVE HEARINGS
(2401 Cleanleigh Drive)		
	*	FOR
AMCB Perring, LLC, <i>Legal Owner</i>		
Shop Rite of Perring Parkway, LLC,	*	BALTIMORE COUNTY
<i>Contract Purchaser/Lessee</i>		
Petitioners	*	CASE NO. 2012-0289-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County for consideration of a Petition for Variance filed by Deborah C. Dopkin, Esquire on behalf of the legal owner, AMCB Perring, LLC and the contract purchaser/lessee, Shop Rite of Perring Parkway, LLC (“Petitioners”). The Petitioners are requesting Variance relief from Section 450.4 Attachment 1.5.d of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit two enterprise canopy signs on a wall containing an exterior entrance with a combined sign area of 652.5 square feet in lieu of the permitted 512 square feet, and one wall-mounted sign on a side wall without a separate exterior customer entrance. The subject property and requested relief is more fully depicted on the redlined site plan that was marked and accepted into evidence as Petitioners’ Exhibit 2.

Appearing at the public hearing in support of the variance request was Howard Klein and Torrence Pierce with Frederick Ward Associates, the consulting firm that prepared the site plan. Deborah C. Dopkin, Esquire attended as Counsel for the Petitioners. 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 opposition or protest.

A ZAC comment was received from the Department of Planning on June 18, 2012 in support of Petitioners' request.

Testimony and evidence revealed that the subject property is located within a strip shopping center in the Parkville area of Baltimore County. The Petitioner has revitalized and reopened a long abandoned Super Fresh grocery market, and it is now operated as a Shop Rite store. Mr. Klein explained that his grandfather started the company in 1927, and that Kleins now has eight Shop Rite stores in Maryland.

Based upon the testimony and evidence presented, I am persuaded to grant the request for 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. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioners.

Under *Cromwell* and its progeny, to obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Trinity Assembly of God v. People's Counsel, 407 Md 53, 80 (2008).

Petitioners have met this test.

Petitioners' engineer, Mr. Pierce, testified that the subject property has approximately 2,000 feet of frontage on Perring Parkway, but that the store is set back 400-500 feet from the roadway. Mr. Pierce also showed photos of the site which depict a forested floodplain (Herring Run) that is also situated between the store and Perring Parkway. These factors render the property unique in the zoning sense, and also make it difficult for passing motorists to identify the store.

Mr. Pierce also opined that the proposed signage would enhance traffic safety and would not be detrimental to the health, safety and welfare of the community.

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

THEREFORE, IT IS ORDERED, this 19 day of July, 2012, by this Administrative Law Judge, that Petitioners' Variance request from Section 450.4 Attachment 1.5.d of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit two enterprise canopy signs on a wall containing an exterior entrance with a combined sign area of 652.5 square feet in lieu of the permitted 512 square feet, and one wall-mounted sign on a side wall without a separate exterior customer entrance in lieu of on a side wall with a customer entrance, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioners may apply for a building permit and may be granted same upon receipt of this Order. However the Petitioners are hereby made aware that proceeding at this time is at their 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 Petitioners 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.

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:pz