

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
N/side of Atrium Court, 400' NE of the	*	OFFICE OF
c/line of Lakeside Boulevard		
(9401 Groveton Circle & 4730 Atrium Ct.)	*	ADMINISTRATIVE HEARINGS
2 nd Election District		
4 th Council District	*	FOR
WSL Owings Mills Investors, LLC and	*	BALTIMORE COUNTY
The Groveton, LLC, <i>Legal Owners</i>		
Petitioners	*	CASE NO. 2012-0266-SPHA

* * * * *

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings (OAH) as Petitions for Special Hearing and Variance filed by the legal owners of the subject property, WSL Owings Mills Investors, LLC (4730 Atrium Court) and The Groveton, LLC (9401 Groveton Circle). The Petitioners are requesting Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), as follows:

1. An amendment to Case No. 02-100-SPH to permit the existing freestanding community identification sign to identify the Groveton Green community in addition to the existing Atrium Village community; and
2. For such other and further relief as may be required by the Administrative Law Judge for Baltimore County.

The Petitioners are also seeking variance relief from the B.C.Z.R. as follows:

1. Section 450.4 Attachment 1.2(vii), to permit a freestanding community sign that is 10' tall in lieu of the permitted height of 6' (Sign A);
2. Section 450.3 Attachment 1.2(v), to permit a maximum area/face of 64 square feet in lieu of the maximum area/face permitted of 25 square feet (Sign A);
3. Section 450.4 Attachment 1.2(vii), to permit a freestanding community sign that is 11' in lieu of the permitted height of 6' (Sign B);

4. Section 450.4 Attachment 1.2(v), to permit a maximum area/face of 30 square feet in lieu of the maximum area/face permitted of 25 square feet (Sign B), and
5. For such other and further relief as may be required by the Administrative Law Judge of Baltimore County.

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 held for this case were Fred Karem, representing The Groveton, LLC and David A. Hamil with D.S. Thaler & Associates, LLC, the professional engineer who prepared the site plan. The Petitioners were represented by Jason T. Vettori, Esquire with Smith, Gildea and Schmidt, LLC. Appearing as an interested citizen was William Steward. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

The Zoning Advisory Committee (ZAC) comments were received and made a part of the file. A ZAC comment was received from Development Plans Review dated May 14, 2012 which states:

For sign 'A' to be placed in the Atrium Court right-of-way, the petitioner must first execute a franchise agreement. Should you grant a variance for sign 'A', please condition it upon execution of the franchise agreement."

Testimony and evidence revealed that the subject property is 15.64 acres and is zoned RAE 2. Petitioners are constructing luxury apartments on the premises, and hope to begin renting the units this fall. The capital investment for the project is approximately \$36 million, and Mr. Karem testified the apartments will be "high end" and will assist Baltimore County efforts to revitalize the adjacent Owings Mills Mall and environs. Petitioners also stressed that the project is LEED Gold certified, which will provide numerous environmental benefits.

William Steward, who is employed by the Briarwood Apartments (which are adjacent to the subject property and are shown on Exhibit 1) expressed concern with potential traffic hazards if the variance was granted for sign A at the intersection of Atrium Court and Lakeside Blvd. Petitioners' engineer, David Hamil, presented a "sight distance" exhibit (Exhibit 6) which shows the intersection in question, and the proposed sign would be positioned in the same location as the existing sign; the height of the proposed sign A would be 10', and the Atrium sign would be on top, with the Groveton Green sign below. (Exhibit 1, sheet 2). Based on Mr. Hamil's testimony and Exhibit 6, it appears cars preparing to turn onto Lakeside Blvd. are positioned well beyond the sign in question, and I do not believe that a traffic hazard would be created if relief was granted.

Based on the evidence presented, I find that the variances can be granted in such a manner as to meet the requirements of Section 307 of the B.C.Z.R., as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995). I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Indeed, the site is irregularly shaped and has very steep topography, which makes it hard to see the project from Lakeside Blvd.

I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship, given that Petitioners would be unable to attract prospective tenants to this project, which is set back some distance from Lakeside Blvd., and is partially obscured by the Briarwood Apartments complex.

Finally, as discussed earlier, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare.

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

THEREFORE, IT IS ORDERED, this ___8___ day of June, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing seeking relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve an amendment to Case No. 02-100-SPH to permit the Groveton Green community to be identified on the free-standing community identification sign as shown on Petitioners' Exhibit 1, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the requested variance relief from the B.C.Z.R. as follows:

1. Section 450.4 Attachment 1.2(vii), to permit a freestanding community sign that is 10' tall in lieu of the permitted height of 6' (Sign A);
2. Section 450.3 Attachment 1.2(v), to permit a maximum area/face of 64 square feet in lieu of the maximum area/face permitted of 25 square feet (Sign A);
3. Section 450.4 Attachment 1.2(vii), to permit a freestanding community sign that is 11' in lieu of the permitted height of 6' (Sign B);
4. Section 450.4 Attachment 1.2(v), to permit a maximum area/face of 30 square feet in lieu of the maximum area/face permitted of 25 square feet (Sign B),

be and are hereby GRANTED.

The relief granted herein shall be conditioned upon and subject to the following:

1. The Petitioners may apply for any required permits 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.

2. Petitioners' execution of a license and/or franchise agreement in a form acceptable to Baltimore County's Bureau of Real Estate Compliance.

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