

IN RE: <b>PETITIONS FOR VARIANCE AND</b> *	BEFORE THE
<b>SPECIAL VARIANCE</b>	
(501 Frederick Road) *	OFFICE OF
1 <sup>st</sup> Election District	
1 <sup>st</sup> Council District *	ADMINISTRATIVE HEARINGS
IAMIC, LLC	
Petitioner *	FOR BALTIMORE COUNTY
	<b>Case No. 2013-0280-SAA</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Variance and Special Variance filed by Caroline L. Hecker, Esquire, on behalf of the legal owner, IAMIC, LLC. The Variance was filed pursuant to Baltimore County Zoning Regulations (“B.C.Z.R”) as follows:

1. Section 405.4 Attachment 1, 5(a)(VI) to permit 4 wall-mounted enterprise signs on the building facades in lieu of the permitted 3 signs (Sign 1 on Plat to Accompany Zoning Petition).
2. Section 450.4 Attachment 1, 3(b)(VII) to permit a directional sign of 10.67 ft. in height in lieu of the permitted 6 ft. (Sign 2 on Plat to Accompany Zoning Petition).
3. Section 450.4 Attachment 1, 3(b)(VII) to permit two directional signs of 11’ 2” ft. in height in lieu of the permitted 6 ft. (Sign 3 on Plat to Accompany Zoning Petition).
4. Section 450.4 Attachment 1, 3(a) to permit two canopy-type directional signs in lieu of the permitted wall-mounted or free-standing signs (Sign 4 on Plat to Accompany Zoning Petition).
5. Section 450.5.B.3.b to permit erection of the signs above the face of the canopy in lieu of on the face of the canopy (Sign 5 on Plat to Accompany Zoning Petition).
6. Section 450.4 Attachment 1, 5(f)(VII) to permit two free-standing order boards of 6.75 feet in height in lieu of the permitted 6 feet (Sign 6 on Plat to Accompany Zoning Petition).

7. Section 450.4 Attachment 1.3(a) to permit three (3) projected directional signs in lieu of the three (3) wall-mounted or free-standing directional signs (Sign 7 on Plat to Accompany Zoning Petition).
8. Section 409.6.A.2 to permit 27 parking spaces in lieu of the required 75 parking spaces.

The petition for special variance sought permission to develop within a basic-services map (transportation) area of deficiency, concerning the failing intersection at Frederick Road and Bloomsbury Avenue.

Appearing at the public hearing in support of the requests was Mauro Aguilar, Major Re-Model Program Manager, Jim Bower, Operator, both with McDonald's Corporation, Robert Goldman, Architect with Chesapeake Design Group, and Geoffrey Ciniero, Professional Engineer with George William Stephens, Jr. and Associates, Inc., who prepared the site plan for this project. Caroline L. Hecker, Esquire, with Rosenberg Martin Greenberg, LLP, appeared as counsel and represented the Petitioner. The file reveals that the Petition was properly posted and advertised as required by the Baltimore County Zoning Regulations. There were no Protestants in attendance, and the file does not contain any letters of protest or opposition. In fact, the Catonsville Chamber of Commerce wrote a letter in support of the project. *See* Petitioner's Exhibit 7.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The Department of Planning (DOP) supports the Petitioner, and the Bureau of Development Plans Review (DPR) does not believe that the proposed improvements would have any adverse effect on the failing intersection.

The subject property is 4,238 square feet and is zoned BL CCC. The site is improved with a McDonald's restaurant, and the owner proposes to remodel the restaurant and install a

modern sign package similar to the other McDonald's restaurants in the area. Variance relief is requested before these improvements can be completed.

Based upon the testimony and evidence presented, I will grant the request for variance relief. 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).

The property is small and irregularly shaped, and is therefore unique. The Petitioner would experience a practical difficulty if relief was denied, given it would be unable to complete the proposed improvements. Finally, 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. This is demonstrated by the absence of opposition from the community and County reviewing agencies.

Pursuant to the posting of the property, public hearing, and after considering the testimony and evidence offered, I find that Petitioner's Variance requests should be granted.

THEREFORE, IT IS ORDERED this 8<sup>th</sup> day of August, 2013, by the Administrative Law Judge that the Petition for Variance filed pursuant to B.C.Z.R. as follows:

1. Section 405.4 Attachment 1, 5(a)(VI) to permit 5 wall-mounted enterprise signs on the building facades in lieu of the permitted 3 signs (Sign 1 on Plat to Accompany Zoning Petition).
2. Section 450.4 Attachment 1, 3(b)(VII) to permit a directional sign of 10.67 ft. in height in lieu of the permitted 6 ft. (Sign 2 on Plat to Accompany Zoning Petition).
3. Section 450.4 Attachment 1, 3(b)(VII) to permit two directional signs of 11' 3" ft. in height in lieu of the permitted 6 ft. (Sign 3 on Plat to Accompany Zoning Petition).

4. Section 450.4 Attachment 1, 3(a) to permit two canopy-type directional signs in lieu of the permitted wall-mounted or free-standing signs (Sign D4 on Plat to Accompany Zoning Petition).
5. Section 450.5.B.3.b to permit erection of the signs above the face of the canopy in lieu of on the face of the canopy (Sign 5 on Plat to Accompany Zoning Petition).
6. Section 450.4 Attachment 1, 5(f)(VII) to permit two order boards of 6.75 feet in height in lieu of the permitted 6 feet (Sign 6 on Plat to Accompany Zoning Petition).
7. Section 450.4 Attachment 1.3(a) to permit three (3) projected directional signs in lieu of the three (3) wall-mounted or free-standing directional signs (Sign 7 on Plat to Accompany Zoning Petition).
8. Section 409.6.A.2 to permit 27 parking spaces in lieu of the required 75 parking spaces,

be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Special Variance pursuant to Section 4A02.4.D of the B.C.Z.R. to permit nonindustrial development within a mapped transportation area rated at level-of-service E or F, pursuant to B.C.Z.R. Section 4A.02.4.G, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

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

JEB/dlw

Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County