

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(Pomona Drive)		
3 rd Election District	*	OF ADMINISTRATIVE
2 nd Councilman District		
SMC Pomona Apartments, LLC	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2014-0099-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Patricia A. Malone, Esquire, on behalf of the legal owner of the subject property. The Petitioner is requesting Variance relief from §450.4 Attachment 1.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow two ground-mounted community signs, each with a sign area/face of 66.5 sq. ft. and 113 inches¹ in height, in lieu of the permitted 25 sq. ft. and 6 ft. in height. The subject property and requested relief is more fully depicted on the two-sheet site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the requests was Rebecca Hodnett, Ronald T. Frank, David Thaler and Victoria Ballestero. David Karceski, Esquire and Justin Williams, Esquire of Venable, LLP appeared as counsel and represented the Petitioner. The file reveals that the Petition was properly advertised and posted as required by the Baltimore County Zoning Regulations. Mike Pierce, on behalf of the Pikesville Communities Corporation, attended the hearing and opposed the relief.

¹ At the hearing, the Petitioner submitted an Amended Petition, reflecting that the proposed height is in fact 121 inches, and this figure will be used in the Order that follows.

There were no substantive Zoning Advisory Committee (ZAC) comments received.

Testimony and evidence revealed that the subject property is approximately 77 +/- acres and is zoned DR 2 and DR 10.5. The property is improved with a large apartment complex (441 units) constructed in the 1970's. A new owner has purchased the property, and is in the midst of a \$25M renovation project. The Petitioner proposes to erect two "community" signs on the property, and requires height and sign face area variances to do so.

Based upon the testimony and evidence presented, I will grant the request.

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).

Petitioner has met this test. As noted by Mr. Thaler, the large property is irregularly shaped, and the residential portion of the site is "tucked behind" business zoned land, on which is constructed a restaurant and other stores. As such, the property is unique.

If the B.C.Z.R. were strictly interpreted, the Petitioner would indeed suffer a practical difficulty, given it would be unable to install the proposed signs. 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 lack of County agency opposition.

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

THEREFORE, IT IS ORDERED, this 23rd day of December, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to

Baltimore County Zoning Regulations (“B.C.Z.R”) to allow two ground-mounted community signs, each with a sign area/face of 66.5 sq. ft. and 121 inches in height, in lieu of the permitted 25 sq. ft. and 6 ft. in height, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for 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.

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

JEB:sln