

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(3903 Naylor's Lane)</b>		
3 <sup>rd</sup> Election District	*	OF ADMINISTRATIVE
2 <sup>nd</sup> Councilman District		
Naylor's Office Property	*	HEARINGS FOR
Venture, LLC, <i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2013-0277-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by David H. Karceski, Esquire, on behalf of the legal owner, Naylor's Office Property Venture, LLC. The Variance was filed pursuant to Baltimore County Zoning Regulations ("B.C.Z.R") § 450.4 Attachment 1.3(a) to allow a ground mounted directional sign with a sign area/face of 10.6 square feet in lieu of the permitted 8 square feet and to allow the company name and logo to occupy 73% of the total sign area in lieu of the permitted 30%. The subject property and requested relief is more fully depicted on the 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 Neil Kahn and Mark Tsitlik the engineer who prepared the site plan. David H. Karceski, Esquire appeared as counsel and represented the Petitioner. There were no Protestants or interested citizens in attendance, and the file does not contain any letters of protest or opposition. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

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

Testimony and evidence revealed that the subject property is approximately 1.3734 acres

and zoned OR-1. The Petitioner constructed a new 7,000 sq. ft. 1 story office building on the site approximately 1 ½ years ago. The project was reviewed and approved by the County's Design Review Panel. Though the building is visible from Old Court Road, the only point of access is Naylors Lane, and the Petitioner proposes to install this directional sign to highlight that fact.

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).

Petitioner has met this test. Mr. Tsitlik, a professional engineer accepted as an expert, testified via proffer that the subject property is four times longer than it is wide. In addition, he explained that there is a topographical change throughout the site. These qualities make the property unique.

If the B.C.Z.R. were strictly enforced, the Petitioner would indeed suffer a practical difficulty, since it would be unable to install the directional sign which would help to direct motorists to the site. 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 absence of County and/or community 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 19th day of July, 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”) § 450.4 Attachment 1.3(a) to allow a ground mounted directional sign with a sign area/face of 10.6 square feet in lieu of the permitted 8 square feet and to allow the company name and logo to occupy 73% of the total sign area in lieu of the permitted 30% , 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.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB: sln