

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(3223 Washington Blvd.)		
13 th Election District	*	OFFICE OF
1 st Councilmanic District		
McDonald's Corporation	*	ADMINISTRATIVE HEARINGS
Petitioner	*	FOR BALTIMORE COUNTY
	*	Case No. 2014-0032-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Variance filed by Caroline L. Hecker, Esquire, of Rosenberg, Martin, Greenberg, LLP on behalf of McDonald's Corporation, legal owner. The Variance was filed pursuant to Baltimore County Zoning Regulations ("B.C.Z.R") as follows:

Signage Regulations:

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 (Signs A and B 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 C 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 D 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 freestanding signs (Sign E 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 E 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 ft. in height in lieu of the permitted 6 ft. (Sign F on the Plat to Accompany Zoning Petition).
7. Section 450.4 Attachment 1.3(a) to permit two (2) projected directional signs in lieu of the two (2) wall-mounted or free standing directional signs (Sign G on Plat to Accompany Zoning Petition).

8. Section 450.4 Attachment 1, 5(b)(V) to permit a free-standing enterprise sign having a height of 35 ft. in lieu of the permitted 25 ft. (Sign H on Plat to Accompany Variance Petition).

9. Section 450.4 Attachment 1, 5(b)(V) to permit a free-standing enterprise sign having a face of 133 sq. ft. in lieu of the permitted 75 sq. ft. (Sign H on Plat to Accompany Zoning Petition).

Appearing at the public hearing in support of the requests was Eric Kunimoto, Esquire, Jeff Bell and Robert Goldman. Caroline Hecker, Esquire, 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.

No substantive Zoning Advisory Committee (ZAC) comments were received from any of the County reviewing agencies.

The subject property is approximately 1.32 acres and is zoned BL. The property is improved with a McDonald's restaurant, constructed in 1987. The Petitioner is remodeling the location (a \$1 million investment) and as part of the renovation will install an updated sign package, for which variance relief is required.

Based on the evidence presented, I find that the variance 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). The property is irregularly shaped, fronts on three streets, and is partially located in Baltimore City and partially located in Baltimore County. It is thus unique.

The Petitioner would experience a practical difficulty if relief were denied, given it would be unable to install the proposed signage, which is in place at 17 other McDonald's locations in the County.

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 and/or community opposition.

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

THEREFORE, IT IS ORDERED this 10th day of October, 2013, by the Administrative Law Judge that the Petition for Variance filed pursuant to B.C.Z.R. as follows:

Signage Regulations:

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 (Signs A and B on Plat to Accompany Zoning Petition).
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8. Section 450.4 Attachment 1, 5(b)(V) to permit a free-standing enterprise sign having a height of 35 ft. in lieu of the permitted 25 ft. (Sign H on Plat to Accompany Variance Petition).
9. Section 450.4 Attachment 1, 5(b)(V) to permit a free-standing enterprise sign having a face of 133 sq. ft. in lieu of the permitted 75 sq. ft. (Sign H on Plat to Accompany Zoning Petition),

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.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln