

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(4101 Wholesale Club Dr.)		
14 th Election District	*	OF ADMINISTRATIVE
6 th Councilman District		
KB of Baltimore, Inc.	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2014-0021-A

* * * * *

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 of the subject property. The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: (1) pursuant to §450.4 Attachment 1.7(b) (v) and 7(b) (vii) to allow a freestanding joint identification sign with a sign area/face of 223 square feet and height of 33 feet in lieu of the permitted 132 square feet and height of 25 feet; (2) pursuant to §450.4 Attachment 1.7(b) (ix) to allow the display of 11 lines of text with a sign copy a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 inches height for sign copy; and (3) pursuant to §102.5 and 450.6.A.1 to permit a pylon sign with a height of 33 feet within the 25 foot clear-sight-triangle bounded on two sides by roads. 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 1A & 1B.

Appearing at the public hearing in support of the requests was Mitch Kellman and Carl Reinke. David H. Karceski, Esquire 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. There were no Protestants or interested citizens in attendance.

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

Testimony and evidence revealed that the subject property (a shopping center) is approximately 22 +/- acres in the aggregate, and is zoned BR.

Based upon the testimony and evidence presented, I will grant the request. 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. Kellman testified (via proffer) that the property is irregularly shaped, bifurcated by power lines and bordered on 3 sides by roadways. As such, it is unique. If the B.C.Z.R. were strictly enforced, the Petitioner would indeed suffer a practical difficulty, given it would be unable to install the proposed sign. 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. In addition, a joint identification sign of similar size was erected on the site over 20 years ago, and has not resulted in any complaints or concerns. The proposed sign, as noted by the Department of Planning, will be an "upgrade" to the existing signage.

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 26th day of September, 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") as follows: (1) pursuant to §450.4 Attachment

1.7(b) (v) and 7(b) (vii) to allow a freestanding joint identification sign with a sign area/face of 223 square feet and height of 33 feet in lieu of the permitted 132 square feet and height of 25 feet; (2) pursuant to §450.4 Attachment 1.7(b) (ix) to allow the display of 11 lines of text with a sign copy a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 inches height for sign copy; and (3) pursuant to §102.5 and 450.6.A.1 to permit a pylon sign with a height of 33 feet within the 25 foot clear-sight-triangle bounded on two sides by roads, 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