

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2080 York Road)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Councilmanic District		
Kimco Realty	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2014-0225-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed on behalf of the legal owner, Kimco Realty. The Petition was filed pursuant to §450 of the Baltimore County Zoning Regulations (“B.C.Z.R”) and seeks a variety of sign variances for a strip shopping center. 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 Gregg Birdsall. Dino C. LaFiandra, Esquire and Timothy Kotroco, Esquire, with Whiteford, Taylor & Preston, represented the Petitioner. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants in attendance and the file does not contain any letters of opposition. There were no substantive Zoning Advisory Committee (ZAC) comments received from any of the county agencies.

The subject property is approximately 3.54 acres and is zoned BR-IM. The property is improved with a shopping center known as Timonium Crossing, and is located at the intersection of three public roadways: York, Timonium & Aylesbury Roads. The property is located along an extremely busy commercial corridor, and is adjacent to the Timonium State Fairgrounds. The

Petitioner requests zoning relief to legitimize the signs at the center which have been rendered “illegal” by the B.C.Z.R. sign abatement provisions. B.C.Z.R. §450.8.D. The shopping center has three types of signs for which relief is sought: two (2) freestanding joint identification pylon signs, four (4) landscape or directional signs, and twelve (12) storefront signs.

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. The property is irregularly shaped and is bounded on three sides by public roadways. As such, it is unique. If the B.C.Z.R. were strictly interpreted the Petitioner would suffer a practical difficulty, since it would be unable to retain the signs it has had for years, and would be unable to adequately identify the tenants/merchants located along this very busy corridor. 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 County and/or community opposition.

As noted at the outset, this Petition pertains to eighteen (18) signs at the shopping center, and twenty-five (25) variances are sought. To eliminate the potential for clerical errors or transposition of section or subsection references to the B.C.Z.R., the Order granting relief which follows will incorporate by reference the continuation sheets attached to the Petition.

THEREFORE, IT IS ORDERED, this 1st day of August, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to § 450 of the Baltimore County Zoning Regulations (“B.C.Z.R”), as described in detail on Exhibit A

attached hereto, which is expressly incorporated herein by reference, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. 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