

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(7535 Holabird Avenue)		
12 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
MP63, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0145-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance 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.) §450.4 as follows: (1) to allow a total of 7 wall-mounted enterprise signs with no more than 5 signs on any façade for a single tenant building in lieu of the permitted 3 signs with no more than 2 on any one façade (Sign Nos. 1, 2, 3, 5, 6, 7 and 9); and (2) to allow directional signs with a maximum sign area/face of 20 sq. ft. in lieu of the permitted 8 sq. ft. (Sign Nos. 4,8). The subject property and requested relief is more fully depicted on the site plan that was marked as Petitioner’s Exhibit 1.

David H. Karceski, Esquire appeared and represented the Petitioner. He was joined by Eric McWilliams, a registered landscape architect whose firm prepared the plan, and Roger Hoffman, on behalf of the Lessee (Rite Aid). There were no Protestants or interested citizens in attendance at the hearing. The Petition was advertised and posted as required by the B.C.Z.R. A Zoning Advisory Committee (ZAC) comment was received from the Bureau of Development Plans Review (DPR), which indicated that a lighting plan is required. However, Ms. Tansey later advised that the comment was submitted in error. No other ZAC comments were received.

The subject property is approximately 21 acres and is improved with a large shopping center. The site is zoned BM-CT. This case concerns a portion (i.e., a pad site) of the overall shopping center on which is constructed a new Rite Aid store. The Petitioner seeks variance relief for a sign package at the new store.

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 large property is of irregular dimensions and is surrounded on all four sides by public roadways. As such it is unique. If the B.C.Z.R. were strictly interpreted, Petitioner would experience a practical difficulty, given it would be unable to install the proposed signs, which are the same ones used at Rite Aid stores in the Mid-Atlantic region. 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.

THEREFORE, IT IS ORDERED, this 18th day of February, 2015, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations ("B.C.Z.R.") § 450.4 as follows: (1) to allow a total of 7 wall-mounted enterprise signs with no more than 5 signs on any façade for a single tenant building in lieu of the permitted 3 signs with no more than 2 on any one façade (Sign Nos. 1, 2, 3, 5, 6, 7 and 9); and (2) to allow directional signs with a maximum sign area/face of 20 sq. ft. in lieu of the permitted 8 sq. ft. (Sign Nos. 4 & 8), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JEB: sln

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County