

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(10100 Reisterstown Road)		
3 rd Election District	*	OF ADMINISTRATIVE
2 nd Council District		
GGCV Real Estate, LLC	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0105-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. This case concerns only the signage proposed for the Foundry Row project. As is often the case with large commercial projects (the Foundry Row project encompasses nearly 50 acres and will have 425,000 square feet of commercial/office space) a variety of sign variances are sought, and the Petition identified the relief sought with respect to each of the sign types proposed for the site.

The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows:

Wall-Mounted Enterprise Signs:

1. Pursuant to §450.4 Attachment 1.5(d)(vi) to permit three (3) wall-mounted enterprise signs for LA Fitness (Building 1) in lieu of the permitted one (1) such sign per entity with a separate exterior customer entrance (two (2) of which do not have customer entrances); and
2. Pursuant to §450.4 Attachment 1.5(d)(v) to permit wall-mounted enterprise signs for LA Fitness (Building 1) with a maximum area/face of up to 350 square feet in lieu of the permitted 320 square feet (i.e. two times the length of the wall (160 feet) containing the exterior entrance and defining the space occupied by the separate commercial entity); and

Freestanding Joint Identification Signs:

1. Pursuant to §450.4 Attachment 1.7(b)(vi) to permit up to 3 freestanding joint identification signs per frontage on Reisterstown Road and Painters Mill Road for 1 Sign

- A and 2 Sign B or Sign C's (or, in the alternative, up to 2 freestanding joint identification signs per frontage on Reisterstown Road and Painters Mill Road (as well as the one at the corner of Reisterstown Road and Painters Mill Road)); and
2. Pursuant to §450.4 Attachment 1.7(b)(ix) to permit freestanding joint identification signs fronting on Reisterstown Road and Painters Mill Road with up to 9 lines of copy in lieu of the maximum of 5 lines of copy; and

Freestanding Directory Sign:

1. Pursuant to §§450.4 Attachment 1.4 & 450.7.A.1 to permit a freestanding directory sign with:
 - a. Lettering indicating the names and locations of occupants up to 12 inches high in lieu of the maximum permitted 2 inches high; and
 - b. Other lettering indicating the "identity" (as defined in B.C.Z.R. §450.3) of the shopping center up to 4 feet high in lieu of the maximum permitted 3 inches high; and

Joint Identification Signs with Changeable Copy:

1. Pursuant to §§450.4 Attachment 1.1©(vi), 450.6.B.3 and/or 450.7.B to permit up to 4 joint identification signs with up to 50% of the face area devoted to changeable copy (and to confirm that what is labeled on sheet 3 of 3 on the plan as Joint Identification Sign C constitutes a freestanding changeable copy sign erected as an integral part of an otherwise permitted freestanding joint identification sign which is permitted to have up to 50% of the face area devoted to changeable copy (i.e. up to 43 s.f. is permitted if the face area is 86 s.f.))

A three-sheet site plan was marked and accepted into evidence as Petitioner's Exhibit 1A-1C, and it contains further details regarding the site and the design and location of the proposed signs.

Appearing at the public hearing in support of the requests was Kim Potember, Authorized Representative of GGCV Real Estate LLC. Michael Pieranunzi, a landscape architect accepted as an expert, provided testimony (via proffer) in support of the variance requests. Lawrence Schmidt, Esquire from Smith, Gildea & Schmidt, LLC, represented the Petitioner. No Protestants or interested citizens attended the hearing. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was

received from the Department of Planning (DOP) dated December 11, 2014.

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. As noted earlier, the property is nearly 50 acres and has irregular dimensions; i.e., it is shaped like a pan handle lot. Both of these attributes make the property unique. If the B.C.Z.R. were strictly interpreted the Petitioner would suffer a practical difficulty, given it would be unable to install the signage as proposed.

While at first blush it might seem the signage is excessive, on closer examination I believe the relief sought is both reasonable and consistent with the signage featured at other prominent retail and commercial projects. When you consider that along this stretch of Reisterstown Road each fast food outlet or other small business has its own freestanding sign (see Exhibits 4A-4F), the five freestanding signs proposed for this 50 acre site, which will have 15 or more individual buildings/retailers, seems reasonable indeed. I also 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.

The DOP did not oppose the relief, and it believed the proposed signage presents “a consistent aesthetic for the entire project.” The DOP’s ZAC comment identified four proposed conditions regarding the location of the freestanding signs. After consulting with the DOP, the Petitioner prepared a redlined sign variance plan (Exhibits 2A-2C) which identified the precise

location of each freestanding sign, and thus that agency's concerns have been addressed. The DOP also reviewed and approved sign elevations with logos and font/typeface details for proposed anchor tenants (including LA Fitness and Wegmans), and the signs will be attractive and constructed of high quality materials. See Exhibits 3A & 3B.

THEREFORE, IT IS ORDERED, this 2nd day of January, 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.") as follows:

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1. Pursuant to §450.4 Attachment 1.5(d)(vi) to permit three (3) wall-mounted enterprise signs for LA Fitness (Building 1) in lieu of the permitted one (1) such sign per entity with a separate exterior customer entrance (two (2) of which do not have customer entrances); and
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be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

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