

**IN RE: PETITION FOR VARIANCE**  
**(8823 Pulaski Highway)**  
15<sup>th</sup> Election District  
6<sup>th</sup> Council District  
VEI Circuit, LLC  
Petitioner

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BEFORE THE OFFICE  
OF ADMINISTRATIVE  
HEARINGS FOR  
BALTIMORE COUNTY  
**CASE NO. 2015-0067-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 permit two (2) wall-mounted enterprise signs for Ashley Furniture HomeStore in lieu of the permitted one (1) such sign per entity with a separate exterior customer entrance; **(2)** to permit a freestanding joint identification sign fronting on Pulaski Highway with: (a) a face area of 202.5 sq. ft. in lieu of maximum face area of 150 ft.; (b) a height of 28 ft. in lieu of the maximum height of 25 ft.; (c) copy displaying the names of tenants or occupants of as little as 3 in. high in lieu of the minimum 8 in. high; and (d) nine (9) lines of copy in lieu of the maximum of five (5) lines of copy; and **(3)** to permit a freestanding joint identification sign fronting on Rossville Boulevard with: (a) a face area of 152.4 sq. ft. in lieu of the maximum face area of 150 ft.; (b) copy displaying the names of tenants or occupants of as little as 3 in. high in lieu of the minimum 8 in. high; and (c) Seven (7) lines of copy in lieu of the maximum of five (5) lines of copy. 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 request was Len Weinberg and Matthew

Bishop, professional landscape architect, whose firm prepared the plan. Jason T. Vettori, Esquire from Smith, Gildea & Schmidt, LLC, represented the Petitioner. Mike Pierce attended the hearing to voice concerns regarding temporary signage at this site, an issue discussed below. The Petition was advertised and posted as required by the B.C.Z.R. There were no substantive Zoning Advisory Committee (ZAC) comments received.

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 has a truncated corner at the intersection of Rossville Boulevard and Pulaski Highway, which reduces visibility into the site. As such the property is unique. If the B.C.Z.R. were strictly interpreted the Petitioner would suffer a practical difficulty, given it would be unable to retain its existing signage and include the name of a new tenant on the joint identification signs. 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.

Mike Pierce indicated that while he does not oppose the variance or signage proposed in this case, he is troubled by the numerous temporary signs at the site. I share his concerns, and as indicated at the hearing, the signs create visual clutter and degrade the appearance of the area. Mr. Pierce noted, and his photos (Protestant's Exhibit 1A-1C) confirm the fact, that these signs (advertising the Ashley Furniture Home Store) have existed on and off at the location for over three years. While the Petitioner did not place the signs, I am confident that the commercial

lease agreement it has with Ashley mandates that the tenant comply with all laws and regulations. One such law is the prohibition on temporary signage of this nature, and the relief granted below will include a condition designed to address this situation.

THEREFORE, IT IS ORDERED, this 6<sup>th</sup> day of November, 2014, 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.”): **(1)** to permit two (2) wall-mounted enterprise signs for Ashley Furniture Home Store in lieu of the permitted one (1) such sign per entity with a separate exterior customer entrance; **(2)** to permit a freestanding joint identification sign fronting on Pulaski Highway with: (a) a face area of 202.5 sq. ft. in lieu of maximum face area of 150 ft.; (b) a height of 28 ft. in lieu of the maximum height of 25 ft.; (c) copy displaying the names of tenants or occupants of as little as 3 in. high in lieu of the minimum 8 in. high; and (d) nine (9) lines of copy in lieu of the maximum of five (5) lines of copy; and **(3)** to permit a freestanding joint identification sign fronting on Rossville Boulevard with: (a) a face area of 152.4 sq. ft. in lieu of the maximum face area of 150 ft.; (b) copy displaying the names of tenants or occupants of as little as 3 in. high in lieu of the minimum 8 in. high; and (c) seven (7) lines of copy in lieu of the maximum of five (5) lines of copy, 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.

2. Petitioner must within 15 days of the date hereof send via certified mail a letter to the management at Ashley Furniture Home Store enclosing a copy of this Order and admonishing the tenant that the temporary signage and banners it has erected along the roadways leading into the shopping center are illegal and can subject the tenant and/or owner to substantial civil penalties under County law. Counsel shall provide to the Office of Administrative Hearings (OAH) for inclusion in the case file a copy of the letter referenced herein.

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

JEB:sln

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Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County