

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b> *	BEFORE THE
<b>AND VARIANCE</b>	
(103 E. Joppa Road) *	OFFICE OF
9 <sup>th</sup> Election District	
5 <sup>th</sup> Council District *	ADMINISTRATIVE HEARINGS
Towson Circle Holdings, LLC <i>Legal Owner</i>	
Petitioner *	FOR BALTIMORE COUNTY
	<b>Case No. 2015-0037-SPHA</b>

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**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of Towson Circle Holdings, LLC Legal Owner (“Petitioner”). As in many cases involving the sign regulations, the Petition in this case contains numerous requests (i.e., eight) for zoning relief. But distilled to its essence, requests 1-3 concern two joint identification signs along Joppa Road. The regulations permit only one sign per road frontage. These signs would be slightly larger than permitted by the regulations (106 sq. ft. in lieu of the 100 sq. ft.) and would be located within 30 ft. of one another in lieu of the required 100 ft. Request Nos. 4-8 concern directional signs for the proposed parking garage which would be owned and managed by the Baltimore County Revenue Authority. 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 Thomas Crawley, a Professional Engineer whose firm prepared the plans. David H. Karceski, Esquire, represented the Petitioner. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Paul Hartman, President of the Greater Towson Council of Community Associations (GTCCA), attended the hearing and expressed support for the requests. A substantive Zoning Advisory Committee (ZAC) comment was submitted by the Department of

Planning (DOP), dated September 15, 2014. That agency did not oppose the relief, but did provide substantive comments which will be discussed in greater detail below.

The subject property is approximately 4.12 acres and is zoned BM-CT. This case involves the newly constructed Towson Square project located opposite Towson Town Center. The \$85 million project will feature a movie theatre, eight restaurants, shops and a parking garage just off of the traffic circle in downtown Towson.

Mr. Karceski presented via proffer the testimony of Mr. Crawley, and representatives of the Developer and Baltimore County Revenue Authority also testified. All witnesses noted that the site is located within a crowded and heavily travelled section of the Towson core. Photographs were admitted which depicted the unique nature of the site, as well as the existing development which partially obscures the view of the proposed signage.

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 (Petitioner describes it as "barrel" shaped) and the grade changes throughout the site. As such, the property is unique. The Petitioner would experience a practical difficulty if the regulations were strictly interpreted, since the permitted signage would not be sufficient to allow patrons (and especially motorists) to identify the particular uses on site, including the availability of parking. The grant of relief will in no way be detrimental to the health, safety or welfare of the community, as demonstrated by the support of the local community association.

### DOP Comments

The DOP submitted comments in its memorandum dated September 15, 2014. Each of the comments made by that agency concern only the proposed parking signage for the project. As I indicated at the hearing, I think it is arguable that the Revenue Authority, which will manage and own the parking garage facility, is not subject to the B.C.Z.R. The Baltimore County Revenue Authority (BCRA) was created by the General Assembly, Chapter 126 of Acts of 1955. As an instrumentality of the State, it is not subject to the County's zoning regulations. Board of Child Care v. Harker, 316 Md. 683, 691 (1989). In addition, parking signage (strictly speaking) is utilitarian and not commercial in nature, and does create the type of visual clutter that B.C.Z.R. §450 is meant to address.

In any event, page 3 of the site plan was revised and redlined to reflect that the proposed building-mounted parking sign just south of Pad G (discussed on the second page of DOP's ZAC comment) was relocated to a mounting height of  $\pm 26$  ft., to provide better visibility. Ken Mills, of the BCRA, indicated his agency was willing to honor the DOP's request regarding the "Additional Parking at the Library Garage" lettering, and the Order which follows will contain such a condition. With regard to comment Nos. 1 and 2, I respectfully disagree with the DOP. As noted at the outset, this project is located within downtown Towson, and along with the new commercial projects reshaping the area comes the need for enhanced signage. The parking signs proposed will enhance the functionality of the project and will not in my opinion appear excessive or mar the landscape in any way.

THEREFORE, IT IS ORDERED this 20<sup>th</sup> day of October, 2014, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to §500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R) as follows: **(1)** to allow directional signs for parking garage purposes to project from a wall no more than 7 feet and to be installed on canopies and

extend no more than 3 feet above the canopy structure; and **(2)** to allow a changeable copy display (for parking space availability only) on directional signs not to exceed 16 sq. ft. each, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief as follows: **(1)** to allow two **(2)** freestanding joint identification signs on a single road frontage (Joppa Road) with a sign area/face of 106 sq. ft. each and a height of 22 feet in lieu of a total of four **(4)** signs permitted (one each on four different public road frontages) with a permitted sign area/face of 100 sq. ft. and a height of 25 feet for each sign; **(2)** for freestanding joint identification signs to display a maximum of 16 lines of text with a sign copy a minimum of 1 inch in height in lieu of the permitted 5 lines of text and required 8 inch height for sign copy; **(3)** to allow freestanding signs to be erected as close as 30 feet apart in lieu of the required 100 feet on the same side of a highway (Joppa Road); **(4)** to allow freestanding directional signs with a sign area/face a maximum of 55 sq. ft. each and maximum height of 10 feet in lieu of the permitted 8 sq. ft. and height of 6 feet; **(5)** to allow company names/logos on directional signs to occupy more than 30% of the total sign area; and **(6)** to allow wall-mounted and canopy directional signs for parking garage purposes with sign area/faces a maximum of 90 sq. ft. each, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Prior to issuance of any permit for the signage approved herein, the Petitioner shall submit for review and approval by the DOP revised elevations and plans showing exact sign locations.
2. Within 15 days of the date of this Order the Petitioner shall submit to Baltimore County a revised sheet 3 of the plan (containing sign details) with redline revisions striking through the non-illuminated “Additional Parking at the Library Garage” and “Additional Parking Towson Library Garage” as shown on several of the proposed signs.

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

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

JEB:sln