

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(7912 Belair Road)	*	OFFICE OF
14 th Election District		
5 th Council District	*	ADMINISTRATIVE HEARINGS
Kimco Realty		
Petitioner	*	FOR BALTIMORE COUNTY
	*	Case Nos. 2015-0310-SPHA &
		2015-0311-SPH
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OPINION AND ORDER

These matters comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of the legal owner. Both of the above cases involve the Putty Hill Plaza shopping center. Even so, the zoning office requested Petitioner to file a separate zoning case regarding the pad site (Case # 2015-0311), but the cases were combined for hearing and only one Order will be issued. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: (1) abandon previously approved Special Exceptions and Special Hearings which are no longer being utilized, and; (2) to permit the continuance of an existing pad site for sign purposes notwithstanding ownership. In addition, a Petition for Variance pursuant to B.C.Z.R. as follows: (1) to permit wall mounted enterprise signs with a total square footage each of up to two and half times (2.5) the length of the wall to which the sign is affixed converted to square footage in lieu of the permitted two (2) times the length of the wall converted to square footage; and (2) to permit a freestanding joint identification sign with eight (8) lines of text in lieu of the permitted five (5) lines of text. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the requests was Greg Birdsall. Jennifer R. Busse, Esq., appeared and represented the Petitioner. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County

Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was submitted by the Bureau of Development Plans Review, which noted that landscaping would be required along Bel Air Road.

PETITION FOR SPECIAL HEARING

The petition for special hearing concerns the continuation of a pad site at the property, which is currently occupied by Nations Bank. Being designated as a pad site allows for a freestanding enterprise sign, which is existing on site. As such, the petition will be granted.

VARIANCE

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 has irregular dimensions and is therefore unique. If the B.C.Z.R. were strictly interpreted, Petitioner would experience a practical difficulty, given it would be required to remove signs which have been in place for many years without complaint. 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 15th day of **September, 2015**, 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 abandon previously approved Special Exceptions and Special Hearings (granted in Case Nos. 1982-0208-SPH & 1982-0276-X) which are no longer being utilized, and; (2) to permit the continuance of an existing pad site for sign purposes notwithstanding ownership, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance pursuant to B.C.Z.R. as follows: (1) to permit wall mounted enterprise signs with a total square footage each of up to two and half times (2.5) the length of the wall to which the sign is affixed converted to square footage in lieu of the permitted two (2) times the length of the wall converted to square footage; and (2) to permit a freestanding joint identification sign with eight (8) lines of text in lieu of the permitted five (5) lines of text, be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon 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.
2. Petitioner must provide landscaping at the site as determined in the sole discretion of the Baltimore County Landscape Architect.

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