

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(6666 Security Blvd.)		
1 st Election District	*	OF ADMINISTRATIVE
1 st Council District		
Four Sixes Building LLC, <i>Owner</i>	*	HEARINGS FOR
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2016-0093-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 Four Sixes Building, LLC, legal owner of the subject property (“Petitioner”). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §450.4 as follows: (1) for an existing freestanding joint identification sign to display a maximum of 12 lines of text with sign copy of a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 inches for sign copy (Sign No. A); (2) for an existing freestanding joint identification sign with a sign height of 33 feet in lieu of the permitted 25 feet and sign area/face of 200 square feet in lieu of the permitted 150 square feet (Sign No. A); (3) to allow enterprise signs on a façade of a multi-tenant building without separate exterior customer entrances for tenants (Sign Nos. C, E, L, M & N); (4) to allow a sign displaying a street address with letter height a maximum of 30 inches in lieu of the permitted 8 inches in height (Sign No. U); and (5) to allow two wall-mounted enterprise signs in lieu of one sign on a single tenant façade with only one exterior customer entrance (Sign Nos. O & P). The subject property and requested relief is more fully depicted on the two-sheet site plan that was marked as Petitioner’s Exhibit 1A & 1B.

Mark Arena and Joseph Ucciffero, a professional engineer whose firm prepared the site

plan, appeared in support of the petition. David H. Karceski, Esq. represented the Petitioner. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPR) and Department of Planning (DOP), which are discussed below.

The subject property is approximately 1.3 acres in size and is zoned BM-CCC and BM-AS. The site is improved with a strip shopping center located along Security Blvd. in the Woodlawn area. The center was constructed in the 1950s and has an unusual two-story configuration as shown in the photos marked as Exhibit Nos. 5A-5C. Petitioner has recently renovated the center (a \$1 million investment) and proposes to update the existing signage. To do so requires variance relief.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity necessitates variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Petitioner has met this test. The property is irregularly shaped and there is a significant grade change across the site. As such it is unique. If the B.C.Z.R. were strictly interpreted, Petitioner would experience a practical difficulty, given it would not be able to retain and update existing signage which has been in place for many years without objection. 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.

ZAC COMMENTS

A ZAC comment was submitted by the DPR regarding screening for the parking lot. A similar comment was received in the companion case (2016-0092-A), and a condition addressing this issue is included in the Order below.

The DOP also submitted a ZAC comment, wherein it noted that if the petition is granted the signage will be “at levels of intensity beyond what is allowed by right.” This is certainly true; a “variance is an authorization for [that] which is prohibited by a zoning ordinance.” Cromwell, 102 Md. App. at 699. The DOP, while recognizing that banners and temporary signs are permitted under the Regulations, requested Petitioner be prohibited from displaying such signs. I share the reviewer’s concerns that signs of this nature cause a site to look cluttered and unattractive. But Mr. Arena indicated that such signs are frequently used in the commercial real estate industry when a new tenant opens its doors, and he was cognizant of the limited time frame (i.e., 30-60 days) in which such signs are permitted. In these circumstances I do not believe that a prohibition is warranted, although the Petitioner must be vigilant in ensuring that all temporary signage is removed within the time periods set forth in B.C.Z.R. §450.7.E.2.

THEREFORE, IT IS ORDERED, this 17th day of December, 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) for an existing freestanding joint identification sign to display a maximum of 12 lines of text with sign copy of a minimum of 3 inches in height in lieu of the permitted 5 lines of text and required 8 inches for sign copy (Sign No. A); (2) for an existing freestanding joint identification sign with a sign height of 33 feet in lieu of the permitted 25 feet, and sign area/face of 200 square feet in lieu of the permitted 150

square feet (Sign No. A); (3) to allow enterprise signs on a façade of a multi-tenant building without separate exterior customer entrances for tenants (Sign Nos. C, E, L, M & N); (4) to allow a sign displaying a street address with letter height a maximum of 30 inches in lieu of the permitted 8 inches in height (Sign No. U); and (5) to allow two wall-mounted enterprise signs in lieu of one sign on a single tenant façade with only one exterior customer entrance (Sign Nos. O & P), 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.
2. Petitioner must provide landscaping or screening for the parking area, 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.

JEB:sln

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County