

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(2223 York Road) *	OFFICE OF
8 th Election District *	ADMINISTRATIVE HEARINGS
3 rd Council District *	FOR BALTIMORE COUNTY
Blair & Sons Company, Inc., <i>Owner</i> *	
AAA Mid Atlantic, Inc., <i>Lessee</i> *	
Petitioners *	Case No. 2015-0256-SPHA
* * * * *	

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 Blair & Sons Company, Inc., legal owner, and AAA Mid Atlantic, Inc., lessee (“Petitioners”). The Special Hearing was filed pursuant to §500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to approve a proposed plan for development of property in the M.R. Zone as required. In addition, a Petition for Variance seeks the following: (1) to allow the front building line to be setback from the front property line a minimum of 28 ft. in lieu of the required 75 feet; and (2) to allow two (2) illuminated wall-mounted enterprise signs with sign areas/faces of 58 sq. ft. and nine (9) illuminated wall-mounted enterprise signs with sign areas/faces not to exceed 9.2 sq. ft. in lieu of the one (1) permitted 50 sq. ft. sign.

A five-sheet site plan was marked and accepted into evidence as Petitioners’ Exhibit 1A-E. Appearing at the public hearing in support of the requests were David Crow (a registered landscape architect) and Ryan Doherty (an architect). David H. Karceski, Esq. and Adam Rosenblatt, Esq. represented the Petitioners. Eric Rockel, President of the Greater Timonium Community Council, Inc. attended and indicated his association supports the project. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning

(DOP) and the Bureau of Development Plans Review (DPR). The conditions suggested by those agencies will be included in the Order below.

PETITION FOR SPECIAL HEARING

The property is zoned M.R., which is a seldom seen zoning classification. The regulations require that the site plan for a project in the M.R. zone be approved by the Planning Board and the Administrative Law Judge (ALJ). The Planning Board voted on June 18, 2015 to approve the plan, and I find the Petitioners have satisfied B.C.Z.R. §240. As such, the petition for special hearing will be granted.

VARIANCES

Another unusual attribute of the M.R. zone is that only one (1) 50 sq. ft. non-illuminated sign is permitted. Petitioners propose additional signage and a reduced building setback from the front property line, for which variance relief is required.

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).

Petitioners have met this test. The property is narrow & long, and is therefore unique. If the B.C.Z.R. were strictly interpreted, Petitioners would experience a practical difficulty, given they would be unable to provide appropriate signage to alert motorists along this well-travelled section of York Road. 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. Indeed, the orientation of the building toward the front of the lot (which generates the need for one of the variances) provides an even larger buffer area separating the commercial uses from the residential zone at the rear of the site.

THEREFORE, IT IS ORDERED this 16th day of July, 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.”), to approve a proposed plan for development of property in the M.R. Zone as required, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance: (1) to allow the front building line to be setback from the front property line a minimum of 28 ft. in lieu of the required 75 feet; and (2) to allow two (2) illuminated wall-mounted enterprise signs with sign areas/faces of 58 sq. ft. and nine (9) illuminated wall-mounted enterprise signs with sign areas/faces not to exceed 9.2 sq. ft. in lieu of the one (1) permitted 50 sq. ft. sign, be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
2. Lighting and landscape plans for the site must be approved by the County’s landscape architect.
3. Petitioners must comply with the ZAC comments of the DOP, as set forth in its correspondence dated June 30, 2015 attached hereto.

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