

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(1501-1575 Merritt Boulevard)	*	OFFICE OF
12 <sup>th</sup> Election District		
7 <sup>th</sup> Council District	*	ADMINISTRATIVE HEARINGS
Merritt Boulevard Property, LLP	*	FOR BALTIMORE COUNTY
Petitioner	*	
	*	<b>Case No. 2015-0272-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 the legal owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: (1) to abandon previously granted Special Exception in Case 73-117-X which is no longer being utilized; and (2) to permit the continuance of existing pad sites at the shopping center. In addition, a Petition for Variance pursuant to B.C.Z.R. § 450.4 was filed in connection with certain signs at the center. A three-sheet site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the requests was Steven Ready and Allison Mathern. 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 (DPR). That agency suggested that landscaping be installed along Merritt Boulevard.

## PETITION FOR SPECIAL HEARING

The first special hearing request concerns a special exception granted in 1972, for a theater use on the property. *See*, Case No. 73-117-X. The owner indicated that the theater was in fact never constructed, and the petition will be granted to formally abandon the special exception. The second special hearing request seeks to permit the continued use of Pad Sites A and B as shown on the plan. Site A is a Shell gas station and Site B is an IHOP restaurant. These sites have been in use for many years at the center, and the plan outlines the exact dimensions of each pad site. The special hearing request will be granted to permit the continued use of these sites.

### 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 present site conditions have existed for many years and this property 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 21<sup>st</sup> 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.): (1) to abandon the Special Exception granted in Case 73-117-X

which is no longer being utilized; and (2) to permit the continuance of existing Pad Sites A & B, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance pursuant to B.C.Z.R. § 450.4: (1) to permit three (3) wall mounted signs on a wall with no exterior customer entrance in lieu of none permitted (Signs Nos. 1, 2, & 5); (2) to permit two (2) wall mounted signs on a wall with an exterior customer entrance in lieu of one permitted (Sign No. 4); (3) for an existing freestanding joint identification sign to display a maximum of 10 lines of text with a minimum of 3 in. in height in lieu of the permitted 5 lines of text and required 8 in. of height for sign copy (Sign No. 8); (4) for an existing free-standing enterprise sign with associated changeable copy sign to have a height of 25.5 ft. in lieu of the 25 ft. allowed (Sign No. 10); (5) for an existing enterprise sign with associated changeable copy sign to display an area of 126.7 sq. ft. in lieu of the allowed 100 sq. ft. on a premises with a frontage of 300 ft. (Sign No. 10); (6) for an existing enterprise sign to display an area of 77.7 sq. ft. in lieu of the allowed 75 sq. ft. (Sign No. 9); and (7) for an existing free-standing joint identification sign to display a maximum area of 216 sq. ft. in lieu of the permitted 150 sq. ft. (Sign No. 8), 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 a vegetative buffer along Merritt Boulevard to screen the parking lot. The specific requirements for and location of the plantings shall be determined in the sole discretion of the County's landscape architect.

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:dlw