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| IN RE: PETITION FOR VARIANCE | * | BEFORE THE OFFICE |
| (911, 917 & 919 Reisterstown Rd.) | | |
| 3 rd Election District | * | OF ADMINISTRATIVE |
| 2 nd Council District | | |
| Pikes Village, LLC | * | HEARINGS FOR |
| Petitioner | * | BALTIMORE COUNTY |
| | * | CASE NO. 2016-0046-A |

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of Pikes Village, LLC, 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) to allow a wall-mounted enterprise sign and a projecting enterprise sign on a single building façade with one exterior customer entrance in lieu of the one wall-mounted sign and one canopy sign permitted; and (2) to permit a projecting sign’s structural framework or supporting elements to be visible. A redline site plan was marked as Petitioner’s Exhibit 1A & 1B.

Mark Renbaum appeared in support of the petition. David H. Karceski, Esq. represented the Petitioner. The Petition was advertised and posted as required by the B.C.Z.R. No Protestants or interested citizens attended the hearing. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR).

The subject property is approximately 30,727 square feet and is zoned BL. The site is improved with a commercial building which is presently occupied by a Sherwin Williams paint store, which is looking to expand into additional space. It is that tenant which proposes to install

the projecting sign, as shown on the plan and photographs presented at the hearing.

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 must necessitate 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 has an irregular shape and is therefore unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be unable to alert pedestrians and motorists to the location of the business. This is especially the case here, where photos (Exhibits 4A & 4B) establish that the approach to the site along northbound Reisterstown Road is obscured by trees. In fact, the Pikesville Revitalization Commercial Guidelines state that “[h]anging blade signage should be encouraged for all stores along Reisterstown Road. These signs help...the pedestrians locate stores.” *Id.* at p. 25. (Exhibit 6). 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 Baltimore County and/or community opposition.

In its ZAC comment dated September 17, 2015, the DOP indicated it did not support the request regarding the projecting (i.e., “blade”) sign, which it felt conflicted with the plans for the site approved by the Design Review Panel. Upon receiving the comment the Petitioner worked with the DOP and revised its plans such that the projecting sign would be located between awnings on the façade of the Sherwin Williams store. The redline site plan (Exhibit 1A) reflects these changes. Counsel indicated Ms. Nugent of the DOP was amenable to that proposal.

The file also contains a memorandum from the Zoning Review Office, concerning that agency's interpretation of §450.4, #5(d) (i.e., Table of Sign Regulations), which are admittedly not a model of clarity. That agency believes the variance request should be "for 2 wall signs in lieu of the permitted one wall sign." But the section of the regulations cited by Petitioner permits an "[e]ntity with separate exterior customer entrance" (which this tenant space has) to "erect one canopy and one wall-mounted sign." As such, I believe two signs are permitted on the premises and this section does not specify (as is done in other sections of the sign regulations) that each of the signs must be on a separate façade. The variance request essentially seeks to substitute the projecting/blade sign for the canopy sign.

THEREFORE, IT IS ORDERED, this 23rd day of October, 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) to allow a wall-mounted enterprise sign and a projecting enterprise sign on a single building façade with one exterior customer entrance in lieu of the one wall-mounted sign and one canopy sign permitted; and (2) to permit a projecting sign's structural framework or supporting elements to be visible, 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. Lighting and landscaping must be provided, 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