

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
S side of Eastern Avenue, 840 feet NE	*	DEPUTY ZONING
of intersection of North Point Blvd.		
15 th Election District	*	COMMISSIONER
7 th Councilmanic District		
(7800 block of Eastern Avenue)	*	FOR BALTIMORE COUNTY
Thor Eastpoint Mall, LLC	*	
<i>Petitioner</i>		
	*	Case No. 2009-0076-SPHA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the legal owner of the subject property, Thor Eastpoint Mall, LLC (hereinafter referred to as “Petitioner”), by Robert D. Spaulding, Executive Vice President. Petitioner is requesting Variance relief from Section 450.4.7.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to display 10 lines of sign text with sign copy a minimum of 6 inches in height for each of two freestanding signs in lieu of the permitted 5 lines of text and required 8 inch height for sign copy. Petitioner is also requesting Special Hearing relief in accordance with Section 500.7 of the B.C.Z.R. for an amendment to the site plan approved in Case No. 05-099-SPHA. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner’s Exhibit 1A.

Appearing at the requisite public hearing in support of the requested relief were Joseph Navarre, Development Associate with Thor Eastpoint Mall LLC, Anusha Leyden, Manager of Tenant Coordination for Eastpoint Mall, and Geri Moore, Eastpoint Mall General Manager. David H. Karceski, Esquire represented Petitioner. Also appearing in support of the requested relief was Matthew Allen with Bohler Engineering, P.C., the professional engineer who prepared

the site plan. There were no Protestants or other interested persons in attendance and the hearing proceeded by way of a proffer from Mr. Karceski.

Testimony and evidence presented revealed that the subject property is triangular in shape and located directly south of Eastern Avenue (MD Route 150) and directly north of North Point Boulevard (MD Route 151), just west of Interstate 695 in the Dundalk area of Baltimore County. Immediately east of and adjoining the subject property is a parcel owned by Baltimore Gas and Electric (BGE), on which BGE maintains several high-power transmission lines. The site consists of approximately 66.44 acres, more or less, and is zoned B.M.-C.T. (Business, Major-Commercial, Town-Center Core) and is improved with a regional shopping center known as Eastpoint Mall. As shown on the site plan marked and accepted into evidence as Petitioner's Exhibit 1A, this shopping center includes a main mall building at the center of the subject property, surrounded by a number of retail and other commercial buildings and supporting surface parking. An aerial photograph, marked and accepted into evidence as Petitioner's Exhibit 2, identifies the location of the site in relation to the surrounding roadways, and shows that the subject property has extremely long frontages on both Eastern Avenue and North Point Boulevard. Additionally, Petitioner's Exhibit 2 shows the varying distance between these two roadways, which are far apart at the eastern edge of the property but move closer together and to a point at the western end of the property. Therefore, the property has significant depth that is most extreme at its eastern boundary.

The requested variance relief pertains to new joint identification signage for the shopping center. A second page to the site plan with color elevations for the proposed signs was marked and accepted into evidence as Petitioner's Exhibit 1B and depicts generic tenant panel locations on the signs. With generically labeled tenant panels, Petitioner would have the ability to assign

mall tenants to any available panel location(s) on either sign. As explained by Mr. Karceski, Petitioner requests approval for two freestanding signs, one along the Eastern Avenue frontage and one along the North Point Boulevard frontage, in the vicinity of existing mall access points. If approved, only one joint identification sign would be located on each frontage. Mr. Karceski also noted that the proposed signs do comply with the total square footage and sign height permitted by Sign Regulations contained in Section 450 of the B.C.Z.R. These new signs are part of Petitioner's current efforts to revitalize Eastpoint Mall. As shown on the photographs of the Eastern Avenue and North Point Boulevard frontages that were marked and accepted into evidence collectively as Petitioner's Exhibits 3A through 3J, two new restaurant pad sites are now under construction and, as Mr. Karceski explained, additional outbuildings are approved for construction and shown on Petitioner's Exhibit 1A. These mall improvements and the proposed freestanding signs will enhance the mall's street presence on Eastern Avenue and North Point Boulevard.

At 66.44 acres, the mall property is one of the largest commercial centers with a C.T. overlay district in Baltimore County. Mr. Karceski explained that the specific need for the variance is generated by the mall's overall size and its unique physical characteristics. A review of Petitioner's Exhibit 1A exemplifies the unusual, triangular shape of the property bounded by two state roads, Eastern Avenue and North Point Boulevard. These roadways, which extend for more than 1,000 feet along the mall property, are located a significant distance from one another at the eastern boundary of the mall and gradually taper diagonally southwest and northwest, respectively, toward each other. This creates significant site depth (or distance) between public roadways for a large portion of the property. It is the irregular shape of the subject property, its

overall size and depth, as well as its relationship to surrounding roadways, which make it unique with respect to the requested variance for signage.

Mr. Karceski then explained that the uniqueness of the property would result in practical difficulty if the B.C.Z.R. were interpreted strictly. Petitioner's Exhibit 3 (site photographs) indicates the difficulty for motorists traveling on North Point Boulevard to locate tenants on the Eastern Avenue side of the property, and vice-versa. This lack of visibility into the mall from each roadway makes freestanding signage with a certain amount of tenant lines necessary for tenant identification. The B.C.Z.R. permits only one freestanding identification sign on each road frontage, and the sign may be no larger than 150 square feet in area and 25 feet in height. Petitioner's proposed signs comply with both of these requirements and, in order to respect these area and height allowances and at the same time adequately identify the subject property, more than 5 lines of text devoted to tenant identification are necessary. Additionally, sign copy 6 inches in height in lieu of the required 8 inches is needed for this same purpose.

With regard to any adverse impact, the signage is proposed on highly traveled commercial corridors with Business zoning on both sides of the roadways. Additionally, the commercial uses located on Eastern Avenue and North Point Boulevard opposite the mall property have freestanding enterprise signage that is similar to the signage proposed. Clearly, the proposed signs are not out of character with the surrounding area and, in fact, are tastefully designed. On this point, the Office of Planning, through its Zoning Advisory Committee comment, did not object to the intended signage.

After due consideration of the testimony and evidence presented, it is clear that Petitioner has met the standards set forth in Section 307 of the B.C.Z.R., and that the Petition for Variance should be granted. The subject property is unique by virtue of its physical characteristics and

relationship to the surrounding roadways. It is also clear that, based on the unique features of the site, requiring Petitioner to adhere strictly to the requirements of the B.C.Z.R. would cause a practical difficulty. Petitioner would either be required to install signage not adequate for the mall and its tenants, or to seek variance relief from more significant provisions of the sign regulations, namely its area and height provisions. Petitioner has chosen to make a minimal request in merely seeking variances from the permitted number of tenant lines and size of the sign copy. Finally, I find that no adverse impact will result if the requested relief is granted; rather, properly identifying the mall and its uses will provide a benefit to the general public.

Pursuant to the advertisement, posting of the property and public hearing held, and after considering the testimony and evidence offered, I find that Petitioner's special hearing and variance requests should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 24th day of November, 2008 that Petitioner's Variance requests from Section 450.4.7.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to display 10 lines of sign text with sign copy a minimum of 6 inches in height for each of two freestanding signs in lieu of the permitted 5 lines of text and required 8 inch height for sign copy be and are hereby GRANTED; and

IT IS FURTHER ORDERED that Petitioner's Special Hearing request in accordance with Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) for an amendment to the site plan approved in Case No. 05-099-SPHA be and is hereby GRANTED; subject to the following:

1. Petitioner is advised that it may apply for any required building permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until the 30-day appeal period from the date of this Order has expired. If for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

_____SIGNED_____
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz