

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
SE Corner Middleborough Road and	*	ZONING COMMISSIONER
Back River Neck Road	*	
(1601 Middleborough Road)	*	OF
15 th Election District	*	BALTIMORE COUNTY
5 th Council District	*	
Two Farms, Inc.	*	Case No. 2009-0127-A
Petitioner		

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by Two Farms, Inc., legal owner of the subject property, by and through its attorney David H. Karceski, Esquire with Venable LLP. Petitioner requests variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) for certain signage proposed for the Royal Farms Store use on the property, as follows: from Section 450.4.5.a to allow ten (10) wall-mounted enterprise signs on a building with a total of five (5) of these on one wall, in lieu of the permitted three (3) signs on a building with two (2) on one wall, respectively; and from Section 450.4.5.b to allow a free-standing enterprise sign with a height of 29 feet in lieu of the permitted 25 feet. The subject property and requested relief are more particularly described on a four-page redlined site plan submitted into evidence and marked as Petitioner’s Exhibit 1A – 1D.

Appearing at the requisite public hearing in support of the relief requested were Jeffrey Bainbridge, Director of Real Estate for Royal Farms; Art Leonard and Steve Warfield, Professional Engineers with Matis Warfield, Inc., the consultants who prepared the site plan for this property. David H. Karceski, Esquire and Christopher Mudd, Esquire appeared as counsel for Petitioner. There were no Protestants or other interested persons present.

Petitioner's site plan indicates that the subject property is presently improved with a Royal Farms fuel service station in combination with a convenience store and carwash building that provide additional customer services. The convenience store component of the operation offers a wide variety of food and beverage items and certain retail products for Royal Farms' customers. Petitioner stated at the public hearing before this Zoning Commissioner that it has completed some improvements to the site and that it intends to complete other improvements, all of which include repainting the convenience store building, adding landscaping and fencing on portions of the site, patching on-site pavement, if necessary, and upgrading the signage.

The requested variance relief relates to the new sign package proposed by Petitioner. Specifically, in order to properly identify the site, Petitioner proposes to install one 29-foot tall freestanding sign, in lieu of the permitted height of 25 feet, for the entire property. Additionally, Petitioner proposes to install several small, oval-shaped signs at various locations on its convenience store facades instead of three (3) larger signs, which the sign regulations would otherwise permit. Petitioner explained that the primary purpose of these small wall-mounted signs (as evidenced by their proposed size, not to exceed $16 \pm$ square feet each) is not for off-site advertising but rather to make customers already on-site aware of the multiple services provided inside the convenience store building. Notwithstanding the fact that the requested signs require variances, Petitioner was careful to note two (2) important facts for the record: (1) both the freestanding and wall-mounted signs will not exceed the total sign face area permitted by the regulations (e.g., even with multiple wall-mounted signs, Petitioner will not exceed the area limitation of "two times the length of the wall" for this sign category); and (2) Petitioner is proposing an additional four (4) feet in height for its freestanding sign in lieu of installing a second freestanding sign (which Petitioner could do by right, because one freestanding sign is permitted on each public road frontage).

The testimony and evidence offered by Petitioner disclosed that this 1.34± acre property is zoned B.L.-A.S. (Business, Light – Automotive Services District) and located in the Back River area of Baltimore County. Both the site plan and the aerial photograph, accepted as Petitioner’s Exhibit 2, show that the subject property has an unusual “arrowhead” or “kite” shape and is sandwiched between Back River Neck Road and Middleborough Road with significant frontage on both. Multiple access points exist along these roads to serve the site’s fuel service station, convenience store, and car wash building. As Petitioner explained, the two (2) adjacent roadways have an unusual orientation in relation to the subject property in that they are further apart and perpendicular to one another at the eastern-most portion of the property and curve to become almost parallel to one another until the roads ultimately intersect at the site’s western-most edge. From the parallel portion of the roads’ frontages to their intersection, they are located unusually close to one another. Petitioner referred to the intersection of Middleborough and Back River Neck Roads as the “focal point” of the site, and described it as “heavily traveled.” It is important to note that this is the only intersection that borders the subject site, which is oriented in the direction of a significant stretch of commercial zoning along Back River Neck Road. The intersection is therefore the most appropriate spot along any of the property’s frontages for the freestanding signage.

It is clear that the specific need for the variances is generated by the unique physical characteristics of the site created by the configuration of the surrounding roadways. In this regard, it is the relationship of the dual public roads and their proximity to one another that makes the property unique vis-à-vis the freestanding sign. As noted, these roads are wider apart to the east and then taper to a “focal point” at the western end of the property, which is, as Petitioner testified, the appropriate location for a single freestanding sign to identify the site. Even though two (2) freestanding pylon signs are permitted by right, it simply does not make

sense to locate two (2) signs near this focal point, or anywhere else along the road frontages, because the two (2) signs would be in such close proximity to one another. Rather for this site, due to its unusual shape, a single 29-foot tall freestanding sign is what the site requires. The alternative of locating an additional freestanding sign east of the site's focal point (or its corner) would result in excessive freestanding signage directly across a road from residentially-zoned property. Petitioner's request for one (1) 29-foot tall freestanding sign, if approved, would avoid the unnecessary placement of a second freestanding sign off of the site's busy intersection. With regard to the proposed wall-mounted signage, the site's long public road frontages result in multiple approaches into the site from many different points on the property. Due to this site condition, the convenience store building has multiple facades that operate as front facades to the surrounding roadways. With multiple facades visible to patrons entering the site or already on site fueling their vehicles, signage on each wall is appropriate.

Petitioner further explained that strict application of the B.C.Z.R. to the subject property would result in a practical difficulty and unreasonable hardship. With regard to the freestanding sign, requiring Petitioner to adhere to the height limitation in the B.C.Z.R. (25 feet) would make it difficult for Petitioner to adequately identify its use to westbound traffic approaching the site with only one sign. With the focal point at the western edge of the site, its long road frontages warrant installation of a taller sign (29 feet in height) at the corner to assure that motorists approaching the site from the east are able to identify the use before they reach (or pass) its entrances. Were Petitioner to adhere to the signage regulations and, at the same time, provide for appropriate direction into the site, it would be forced to erect a second freestanding sign on the site. However, as mentioned above, installation of one (1) freestanding sign is more appropriate for this site than two (2) signs. Additionally, with regard to the wall signage, the regulations would force Petitioner to consolidate its proposed small, oval-shaped signs for identification of

the convenience store and its various services into fewer, yet much larger, signs. This conglomeration of signs, frankly, would be unsightly and not nearly as desirable as the sign package Petitioner proposes. *See* Petitioner's Exhibit 1C.

With regard to any adverse impact, Petitioner asserts that the requested relief is more appropriate for this site than the alternative signage Petitioner could install by right. Installation of a second freestanding sign along either of the property's road frontages, directly across the street from residentially-zoned properties, is unnecessary and may be avoided with the requested variance for a single sign. Consolidation of the proposed smaller wall signs into fewer but larger signs would not be consistent with their intended purpose (to provide direction to customers already on site) and would prevent Petitioner from installing an altogether more appropriate wall-mounted sign package. Petitioner also noted that the Office of Planning and the other reviewing agencies that make up the Zoning Advisory Committee (ZAC) offered no objections to the requested relief and that no interested citizens attended the public hearing in this case.

After due consideration of the testimony and evidence presented, it is clear that the requested variances are appropriate and, having met the standards set forth in B.C.Z.R. Section 307, should be granted. As Petitioner testified, the subject site is unique for many reasons, including its unusual shape and irregular public road frontages, which extensively impact this property. 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 for Petitioner, in that Petitioner would be required to install two (2) freestanding signs (in close proximity to one another) and to combine its proposed small, wall-mounted signs into three (3) larger, unappealing signs. This would result in undesirable signage for Petitioner as well as the surrounding community. I have no difficulty finding that the installation of one (1) 29-foot tall sign (with a sign face area of 75 square feet) is preferable to installing two (2) 25-foot tall signs

(each with a maximum permitted sign face area of 100 square feet). Similarly, Petitioner's wall-mounted signs will not exceed the total permitted sign face area on any wall of the convenience store, and I find that Petitioner has proposed a more aesthetically pleasing design with smaller-sized signs instead of bunching them together into larger signs.

Pursuant to the advertisement, posting of the property, and public hearing held on this Petition, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 6th day of February 2009, that the Petition for Variance from Section 450.4.5.a of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow ten (10) wall-mounted enterprise signs on a building with a total of five (5) of these on one (1) wall in lieu of the permitted three (3) signs on a building with two (2) on one (1) wall, respectively; and from Section 450.4.5.b of the B.C.Z.R. to allow a free-standing enterprise sign with a height of 29 feet in lieu of the permitted 25 feet, in accordance with Petitioner's Exhibit 1A – 1D, be and is hereby GRANTED, subject to the following restriction:

1. Petitioner may apply for 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 such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

SIGNED
WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County