

IN RE: **PETITION FOR VARIANCE** *
E/S York Rd., S/Side of Lambourne Rd. *
(21 Lambourne Road, 707, 711, 713, *
715 & 717 York Road – *
(Towson Promenade) *

9th Election District *
5th Council District *

Towson Promenade, LLC *
Owner/Petitioner *

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY

Case No. 2009-0249-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the legal owner of the subject property, Towson Promenade, LLC, by and through its attorney, David H. Karceski, Esquire. The Petitioner requests variance relief from Baltimore County Zoning Regulations (B.C.Z.R.) Section 450 as follows: (1) to allow 22 wall-mounted identification signs with a maximum sign face area of 75 square feet each in lieu of the permitted two wall-mounted identification signs (one per frontage) with a sign face of 25 square feet each, pursuant to Section 450.4.6 (Signs 1 and 2A/2B); (2) to allow wall-mounted identification signs to project no more than 5 feet (Sign 1 - on marquee over building entrance) and 4 feet (Signs 2A/2B) from the wall to which the signs are attached in lieu of the permitted 18 inches, pursuant to Section 450.5.B.9.a.; (3) to allow a wall-mounted directional sign with a sign face area of 18 square feet in lieu of the permitted 8 square feet, pursuant to Section 450.4.3. (Sign 3); and (4) to allow a wall-mounted directional sign to project no more than 3 feet from the wall to which the sign is attached in lieu of the permitted 18 inches, pursuant to Section 450.5.B.9.a. (Sign 3). The property and requested relief are more particularly described on the

site plan and signage details, marked and accepted into evidence as Petitioner's Exhibits 1A and 1B.

At the requisite public hearing in the instant case, David H. Karceski, Esquire and Kedrick N. Whitmore, Esquire appeared as attorneys for Petitioner. Also appearing in support of the Petition were Adam Harbin, Petitioner's Acquisition and Development Partner for this residential apartment project, Kristy Bischoff, the engineer who prepared the site plan filed in this case, and Mitchell Kellman, Director of Zoning Services, both with Daft-McCune-Walker, Inc. Donald Gerding, a member and resident of the Rodgers Forge Community Association, attended the hearing in his individual capacity. No other interested citizens were present at the public hearing, although the Greater Towson Council of Community Associations (GTCCA) and West Towson Neighborhood Association submitted letters to this Commission confirming that these associations have no objection to the sign variance requests. The Greater Towson Committee (GTC) also submitted a letter of support. Each letter is addressed below. As there were no Protestants present at the hearing, the case proceeded informally with a proffer from Mr. Karceski, which was supplemented by the testimony of Mr. Harbin and Petitioner's expert witnesses.

Petitioner's Exhibits 4A and 4B (Aerial Photographs from the Office of Planning's website) revealed that the subject property is 5.3 ± acres in size and split-zoned B.L. (Business, Local), B.M. (Business, Major), B.R. (Business, Roadside), and B.R. with an A.S. (Automotive Services) overlay district on a portion of the site. The property is located at the connection of York and Lambourne Roads in the Towson area of Baltimore County and is at the edge of Towson's commercial core, a large, urban area zoned B.M. - C.T. (Commercial, Town-Center Core) overlay district. It is important to note that the property is also located within the

boundaries of the Towson Revitalization District, and, according to Article 26 of the Baltimore County Code, the County encourages redevelopment of properties like this site within established revitalization districts.

The variance requests pertain to identification and directional signage proposed on the exterior walls of a 379-unit luxury residential apartment building now under construction on the subject property. The building's location on the property and the specific locations for each sign on the building's walls are shown and indicated on Petitioner's Exhibit 1A. Details for these signs are provided on Petitioner's Exhibit 1B. The signage proposed includes: (a) one wall-mounted sign, labeled Sign "1," to be located at the corner of York and Lambourne Roads for identification of the main entrance to this residential apartment building; (b) twenty-one (21) vertical banner signs, labeled Signs "2A" and "2B," to be located along the York Road and Lambourne Road frontages which, as explained below, are predominantly decorative in nature; and (c) one directional sign, labeled Sign "3," to be located on the Lambourne Road façade of the building, the purpose of which is to direct individuals interested in leasing any of the building's 379 available apartment units to the parking garage which serves the leasing office.

The overall sign package that Petitioner desires for this building differs from the building signage used for other residential apartment buildings that this Zoning Commissioner has reviewed in the past. While the sign for the building's main entrance, which provides the building's name ("TOWSON PROMENADE"), and the sign to provide direction to the parking garage within the building for the property's leasing office are signs usually associated with residential apartment buildings, the proposed vertical banner signs are decorative building elements that this Commissioner was not accustomed to prior to the public hearing in this case. The purpose for these decorative banners relates to Petitioner's goal of completing a well-

designed and aesthetically pleasing residential building on Towson's York Road commercial corridor and to the site's redevelopment history, which is reviewed below in this opinion. A color building elevation was provided by Petitioner for illustrative purposes (Petitioner's Exhibit 7) to indicate just how Petitioner's signage will complete this building's high-quality appearance and accomplish what, in the undersign's opinion, is a residential building that will upgrade significantly Towson's portion of the York Road commercial corridor. Although it is a departure from signage used for other residential apartment buildings in the area, through Petitioner's presentation and based upon the support provided by the Office of Planning through its Zoning Advisory Committee (ZAC) comments, I understand the purpose for all of the proposed signs and the sign package's important role in the completion of this high-quality project

By way of brief background, in Case No. IX-638 / 07-139-A, this Hearing Officer/Zoning Commissioner approved a development plan for the apartment building and certain zoning relief, including setback variances from street centerlines, property lines, and street lines to accommodate the building's location and accompanying terraces and stairways as they interact with and engage the significant and multi-directional topographic challenges of the site. As part of the development plan approval process, the Office of Planning required an urban, building edge-to-street edge relationship along York Road and Lambourne Road that necessitated this setback relief, and Planning, therefore, supported all of the variances approved in Case No. 07-139-A. When the site's construction is complete, the result of this zoning relief will be a pedestrian-friendly streetscape along the building's road frontages that is functional and promotes pedestrian activity along Lambourne Road and the York Road commercial corridor. In order to further advance this goal, Petitioner filed for additional variances in Case No. 08-007-SPHA to permit the building to be even closer to York Road. Again, the Office of Planning

supported the additional setback variances in Case No. 08-007-SPHA for the same purpose – the creation of a building-to-street edge that is functional and pedestrian-oriented. In accordance with Planning’s recommendations, this Commission again granted the requested relief in this more recent zoning case. The variance relief requested in the instant case for signage will, in this Zoning Commissioner’s opinion, complete Petitioner’s efforts to establish the urban, building edge-to-street edge relationship desired by the Office of Planning and sought by Petitioner.

With regard to the requested variances for the building’s signage, Petitioner provided testimony and evidence to explain that the unique features of this redevelopment site justify the requested relief. It is the subject property’s large size (5.3± acres in total), irregular configuration, and relationship to the surrounding public roadways, York and Lambourne Roads, which, in part, drive the need for the requested signage. Due to its size and unusual shape, the property has a significant amount of frontage on York and Lambourne Roads, 460± feet and 490± feet, respectively, and the corresponding building lengths along these road frontages are similarly extensive, 400± feet on York Road and 470± feet on Lambourne Road. It is these physical characteristics of the site in combination with the site’s relationship to the adjacent public roadways that establish a uniqueness for the property with regard to its need for signage. In addition to these site features, the property’s development and zoning history also contribute to its uniqueness. As stated above, the Office of Planning previously desired a specific building-to-street edge relationship for this redevelopment and, as such, supported Petitioner’s application for setback variances in Case Nos. 07-139-A and 08-007-SPHA to allow the building’s frontages on York and Lambourne Roads to be closer than otherwise permitted by the B.C.Z.R. Site photographs, marked as Petitioner’s Exhibits 5A – 5D (Existing Conditions Photographs), show the now established edges of the building in relation to York and Lambourne Roads and the

resultant integration of the building into the surrounding streetscape. By constructing the building in close proximity to the public road frontages, the streetscape required by the Office of Planning will be achieved. This specific intent that the building act as a catalyst for the surrounding streetscape makes the property further unique with regard to the requested sign variances. It is, in fact, the requested signs that will be used to complete this effort.

Petitioner next established that this site's uniqueness would create a practical difficulty if the Zoning Regulations were interpreted strictly. As explained by Petitioner, the Sign Regulations do not contemplate a residential project of this size and scale, and, if the B.C.Z.R. were interpreted strictly, Petitioner would not be able to provide appropriate signage for the building or complete the activation of the building's streetscape along York and Lambourne Roads as desired by the Office of Planning. Petitioner's Exhibit 6 (photographs of another of Petitioner's residential apartment project) demonstrates, by example, how a similar sign package serves to enhance and activate another pedestrian-oriented streetscape in a tasteful manner. Petitioner's Exhibit 7 (illustrative building elevations with signage) shows how the proposed signage will also activate this building's streetscape along York and Lambourne Roads. Again, if the B.C.Z.R. is strictly interpreted, this goal will not be met, and Petitioner's signage will not meet the property's signage needs or the goals of the Planning Office.

With regard to adverse impact, Petitioner's testimony and exhibits, as well as input from interested community leaders, associations and the Office of Planning, confirm that the proposed signs will not have an adverse impact on the surrounding area. On the contrary, the proposed signs have been well-received. Petitioner's Exhibits 6 and 7 clearly demonstrate that the requested sign variances will only serve to enhance the building's exterior appeal. With the exception of the vertical decorative banners, the building's signage will be minimal. With regard

to the decorative banners specifically, Petitioner explained that these signs do not function as identification signs in the traditional manner: on 19 of the 21 signs, approximately 90% of the sign face area will be decorative in nature, with only a small portion at the bottom of each banner devoted to identification. Petitioner stated that, in this way, the banner signs will act primarily as decorative accents for the building rather than functioning as signs to convey an advertising message by sign text. These signs, therefore, will not have the potential to create any negative impact that might otherwise result from traditional identification signage. During the public hearing, Petitioner did present a sample of the exterior-grade laminated vinyl banner material to be used for the 21 banner signs as Exhibit 8 in order to demonstrate that the banners will be both durable and of high quality, and this sign material example was also reviewed by the Office of Planning and inspected by this Commission and found to be suitable for its intended purpose.

It is also important to note that, through Petitioner's efforts and the efforts of Petitioner's counsel prior to the public hearing in this case, several meetings occurred to explain to interested community associations and the Office of Planning the purpose of the proposed signs. The associations and Planning, by these meetings, were able to understand why Petitioner filed its Petition for Variance and, as evidenced by the letters accepted into evidence as Petitioner's Exhibits 9 (West Towson Neighborhood Association Letter), 10 (GTCCA Letter), and 11 (Donald Gerding's written comment in support) and the GTC's letter of support and the Office of Planning's Zoning Advisory Committee (ZAC) comments, all interested parties were able to either support the Petition for Variance or indicated no objection to the petition. The GTCCA's letter conditioned this association's support upon my adding conditions to the approval of the requested variances. Specifically, GTCCA requested that I limit any future use of Petitioner's proposed signage so that no portion of these signs may be used for electronic or manual

changeable copy purposes. Additionally, GTCCA asked that Petitioner use only the same exterior grade laminated vinyl material provided by Exhibit 8 for fabrication of the banner signs and that only these same or similar materials be used for any banners in need of replacement. GTCCA specifically requested that no metal or other dissimilar material such as aluminum be used in place of these materials in the future for any replacement banners. I find all of the GTCCA's requests appropriate and will include conditions in the order to make sure Petitioner adheres to their requests.

There were no adverse ZAC comments submitted by any of the reviewing County agencies. As stated above, Petitioner was granted relief from the B.C.Z.R. in two (2) prior zoning cases in order to move the building closer to York and Lambourne Roads and create an urban and active pedestrian-friendly streetscape. As in those prior cases, the Office of Planning supports the granting of the relief requested here, stating that "[t]he proposed signage adds a pedestrian element that is supported by the County."

After due consideration of the testimony and evidence presented, it is clear that Petitioner has met its burden of proof provided in B.C.Z.R. Section 307, and that the Petition for Variance should be granted. The subject property is unique based on its physical characteristics and location as well as the site's development and zoning history, which show a clear intent for the property to provide an urban, pedestrian-friendly streetscape on York and Lambourne Roads. It is also clear that the site's uniqueness would cause a practical difficulty if the B.C.Z.R. were interpreted strictly, because the final step in creating the building's active streetscape through the requested signage would not be possible and adequate signage would not be permitted. Finally, I find that no adverse impact will result if the variances are granted; rather, the variances will allow for the completion of a tastefully-designed and well-constructed residential building,

which will add to the pedestrian-orientated nature of the property. The support of the Office of Planning and the GTC and the letters submitted by interested community associations also demonstrate that no adverse impact will result.

Again, as requested by the GTCCA and in order to ensure that the banner signage will be well-maintained and that this signage is used in the future for its intended purpose, I will impose certain conditions in the order regarding the type of material that may be used for any replacement signs and to prevent the ability to use any portion of the proposed signs for electronic and manual changeable copy sign messages.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 21st day of May, 2009, that Petitioner's request for a Variance to allow 22 wall-mounted identification signs with a maximum sign face area of 75 square feet each in lieu of the permitted two wall-mounted identification signs (one per frontage) with a sign face of 25 square feet each, pursuant to Baltimore County Zoning Regulations (BC.Z.R.) Section 450.4.6 (Signs 1 and 2A/2B), be and hereby is GRANTED; and

IT IS FURTHER ORDERED that Petitioner's request for a Variance to allow wall-mounted identification signs to project no more than 5 feet (Sign 1 - on marquee over building entrance) and 4 feet (Signs 2A/2B) from the wall to which the signs are attached in lieu of the permitted 18 inches, pursuant to B.C.Z.R. Section 450.5.B.9.a., be and hereby is GRANTED; and

IT IS FURTHER ORDERED that Petitioner's request for a Variance to allow a wall-mounted directional sign with a sign face area of 18 square feet in lieu of the permitted 8 square feet, pursuant to B.C.Z.R. Section 450.4.3. (Sign 3), be and hereby is GRANTED; and

IT IS FURTHER ORDERED that Petitioner's request for a Variance to allow a wall-mounted directional sign to project no more than 3 feet from the wall to which the sign is attached in lieu of the permitted 18 inches, pursuant to B.C.Z.R. Section 450.5.B.9.a. (Sign 3) be and hereby is GRANTED, subject to the following conditions:

1. No portion of the building identification signs and/or directional sign approved in Case No. 2009-0249-A may be used for changeable copy purposes, electronic or otherwise.
2. Banner signs are to be maintained in good order and repair and in the event replacement of any of these signs approved in Case No. 2009-0249-A is necessary along the York and/or Lambourne Road frontages of the building, Petitioner shall fabricate these signs with an exterior-grade laminated vinyl material or another similar material. Metal, aluminum, or another dissimilar material may not be used in place of these materials for any replacement banner signage.

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

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