

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
E/S Babikow Road, 150' N of		
King Avenue	*	ZONING COMMISSIONER
(5050 King Avenue)		
14 th Election District	*	OF
6 th Council District		
	*	BALTIMORE COUNTY
Boumi Temple Corporation		
Petitioner	*	Case No. 2009-0265-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 property, Boumi Temple Corporation, by and through its attorney, Jay Irwin Block, Esquire. The Petitioner requests variance relief from Section 450.4.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: **(1)** to permit an existing freestanding ground-mounted identification sign (illuminated) with a sign face area of 18 square feet (Sign 4); **(2)** to allow three (3) illuminated wall-mounted building identification signs with a combined maximum sign face area of 213 square feet in lieu of the permitted one (1) wall-mounted identification sign (one per frontage) with a sign face of 25 square feet each (Signs 1, 2 and 3), and **(3)** to amend the site plan approved in Case No. 98-234-SPHXA. The property and requested relief are more particularly described on the site plan and signage detail¹, marked and accepted into evidence as Petitioner’s Exhibits 1A and 1B.

¹ It is important to note that Sign 2 is the word “Boumi” that is 2.64 square feet and will be placed over the main entrance doorway; Sign 3, a “Shrine Medallion” is to be placed on the canopy face of the portico that extends from the building front over the driveway entrance. Neither of these signs (2 or 3) are to be illuminated nor are they visible from any “highway”. They are therefore exempt from the requirements of B.C.Z.R. Section 450 – *See* 450.2.C - *Exemptions*. Sign 4 is not being changed and has existed in its present state for ten (10) years having been previously approved in Case No. 98-234-SPHXA. In other words, at issue before this Commission is proposed Sign 4 – a 194 square foot LED backlighted “Boumi Shriners” wall-mounted identification sign and the legitimization of the other identification signs on the same frontage.

At the requisite public hearing, Jay Irwin Block, Esquire of Stahl & Block, LLC appeared as attorney for Petitioner. Appearing in support in support of the new signage were James L. Davis, III, Potentate, Charles L. Johnson, Jr., Assistant Rabbin, and Ronald F. Carlson, Chief Rabbin, with Boumi Temple, and Nicholas B. Commodari, a zoning consultant assisting the Petitioner through the building permitting process. There were no Protestants or other interested persons present at the hearing. The case proceeded informally with a proffer from Mr. Block which was supplemented by testimony of Messrs. Davis and Johnson and the Petitioner's consultant, Mr. Commodari.

By way of background, after many years at 4900 North Charles Street in Roland Park, the Boumi Temple moved to its current 34-acre site located on the east side of Babikow Road, not far from the John F. Kennedy Memorial Highway (I-95) and Essex Community College in the Rosedale/White Marsh area of the County. After receiving development plan approval on February 23, 1998, a new 58,600± square foot Temple with associated parking was constructed along with an 11,000± square foot accessory storage building. They relocated the 10-foot high freestanding identification sign (*See* Petitioner's Exhibit 2) from the Charles Street address to their new campus. To the extent applicable, the findings, conclusions and conditions set forth in this Commission's approved Order(s) (Case Nos. XIV-369 and 98-234-SPHXA) are adopted by reference and incorporated herein. On June 12, 2009, a new hearing was held before the undersigned on the instant petition and for the reasons set forth below, the relief requested will be granted.

This case arises from Petitioner's desire to now provide needed visibility, especially from I-95, to assist individuals interested in coming to the property by the placement of the building's name ("Boumi Shriners") on the second floor level of the building to help provide direction. In

this regard, Mr. Johnson testified that membership has declined from 8,000 to 3,600 members over the past ten (10) years since their moving to the County. The loss of members and decline in the number of people who use the facility for its various affairs have resulted in economic hardship. He attributes this to the inability of many people not being able to find their building. Despite the installation of twelve (12) halogen lights installed years ago to light the entire building frontage, complaints are continuously received from new members, visitors, and people intending to come to the property for specific purposes, i.e., weddings, formal dinners, bull roasts, meetings, etc. He explains that the previous Roland Park facility was within a residential area and easily seen from Charles Street compared to the subject rural setting with the new building set back some 700 feet from its entranceway at King Avenue. The only sign providing the public with information of the Temple's location is from King Avenue. The building is not readily apparent given the topography of the land and it is proving to be hard to use the property for its approved purpose. While recognition from King Avenue and Babikow Road exists (many people however drive past the existing signage), there is a greater difficulty in recognizing the building from I-95 and visitors coming to the site from White Marsh Boulevard (Md. Route 43), Philadelphia Road (Md. Route 7) or the Baltimore Beltway (I-695). These factors warrant signage that will serve as an identification that "we are here" and also to serve as recognition that the Shriners exist at this location rather than the public seeing a building that would otherwise appear to be a shoe factory or other industrial use. Messrs. Carlson and Davis discussed the Temple's need to continue in its mission in helping handicapped children and to raise money to take care of its hospital and burn center. The Boumi Temple Corporation allows the election board, community, and neighbors to use the facility for meetings and their parking lot for such

things as flea markets and a site for dumpsters to be located on during spring clean-up programs, etc.

As set forth above, the requested variance relief pertains primarily to signage for identification and directional purposes to the Boumi Temple campus. The exhibits made clear, the wall-mounted sign will help identify the Shriners location from the surrounding roadways. Details of each sign are shown on Petitioner's Exhibit 1B and on the color sign elevation submitted into evidence as Petitioner's Exhibit 4. The new sign letters (Sign 1) will be fabricated from non-reflective brushed stainless steel and installed into the building's block façade. The letters and Shrine Medallion will be 4'-3" high x 45' in length and are well designed and aesthetically pleasing. The letters will be backlit by using light-emitting diodes (LED) from dusk to 11:00 PM. This will be an improvement to the residential community as was pointed out by Mr. Johnson. The backlit LED sign will be less expensive to operate and will not be as stark and bright as the current twelve (12) halogen lights that illuminate the total building frontage. The use of these halogen lights will be discontinued when the new sign is installed.

There was an adverse Zoning Advisory Committee (ZAC) comment received on the day of the hearing from the Office of Planning. The community planner, Laurie Hay, stated in pertinent part:

“The Office of Planning is of the opinion that the proposed signage is not appropriate for a residentially zoned community. The size and method of illumination exceeds that which was agreed upon at the time that the special exception was granted in case #98-234-SPHXA, such agreement was considered to be residential in character, the current freestanding identification sign is sufficient, and compatible with the residential community”. (Emphasis Added)

Following the hearing, I discussed with Ms. Hay the testimony and evidence presented at the hearing. She was satisfied that the new LED lighted sign proposal at the second floor building level would be an improvement to existing conditions and is in no way in conflict with the special exception approval or imposed conditions found in Case No. 98-234-SPHXA.

It is clear that the signage, as shown on Petitioner's Exhibits 1 through 4, is appropriate in the locations proposed and, having met the standards set forth in B.C.Z.R. Section 307, should be granted. This 34±-acre campus is unique by virtue of its overall size, irregular shape, and topographic features. These unique features of the site, along with the relationship of the building to the public roadway on which it has frontage not only limit visibility into the property but also drives the need for the amount of signage requested in order to provide adequate guidance for members and visitors. It has been established that strict compliance with the B.C.Z.R. would result in a practical difficulty and unreasonable hardship for Petitioner. Requiring Petitioner to adhere to the number and size limitations for signage required under the B.C.Z.R. would make it quite difficult for visitors and users of the facility to utilize the Shriners' services in an efficient manner. This fact has been made painfully clear over the past ten (10) years of operation since relocating to Baltimore County.

Finally, there is no evidence that the grant of the relief would be detrimental to the surrounding area – the proposed signage is reasonable given the size of the Boumi Temple and campus, the number of visitors and services provided and the need to provide adequate guidance to those visitors. The neighboring community and the South Perry Hall Boulevard Improvement Association have expressed no objections to the proposal. Therefore, I am persuaded to grant the requested relief.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 17th day of June 2009 that the Petition for Variance seeking relief from Section 450.4.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing 18 square foot freestanding, previously approved, monument sign 10 feet in height and to approve an additional wall-mounted identification sign of 194 square feet on the same frontage in lieu of the permitted one sign per frontage at 25 square feet, both to be illuminated, in accordance with Petitioner's Exhibits 1A and 1B, be and is hereby GRANTED subject to the following:

1. The Petitioner may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioner is hereby made aware that proceeding at this time is at its own risk until the thirty (30) day appeal period from the date of this Order has expired. If, for whatever reason this Order is reversed, the relief granted herein shall be rescinded.
2. The hours of operation for all illuminated signage (freestanding or wall-mounted identification signs) approved in this Order shall be limited in use from dusk until 11:00 PM, Monday through Sunday, without a public hearing and obtaining additional requisite approval.

IT IS FURTHER ORDERED that the previous site plan(s) filed for Development Plan approval and Special Exception relief in Case Nos. XIV-369 and 98-234-SPHXA, are hereby amended and modified, in accordance with this Order and Petitioner's Exhibits 1A and 1B.

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

WJW:dlw

__ORIGINAL SIGNED____
WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County