

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
SW corner of York Road and SE		
side of Washington Avenue	*	DEPUTY ZONING
9 <sup>th</sup> Election District		
5 <sup>th</sup> Councilmanic District	*	COMMISSIONER
(627 York Road)		
	*	FOR BALTIMORE COUNTY
<b>FR White Marsh, Inc.</b>		
<b>c/o Federal Realty Investment Trust</b>	*	
<i>Property Owner</i>		
	*	
<b>SunTrust Bank</b>		
<i>Lessee</i>	*	<b>CASE NO. 2009-0282-A</b>

\* \* \* \* \*

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owner of the subject property, FR White Marsh, Inc. c/o Federal Realty Investment Trust, and the lessee, SunTrust Bank. Variance relief is requested from Section 409.10.A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 6 stacking spaces in lieu of the required 9 for a drive-through bank with 3 transaction stations, and/or any other zoning relief that may be required by the Zoning Commissioner. The subject property and requested relief are more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the variance request were Drake Watson and Edward Hilton on behalf of Petitioner SunTrust Bank, and their attorney, Deborah C. Dopkin, Esquire. Also attending in support of the requested relief were Mitch Kellman and Jerry Turnbaugh with Daft McCune Walker, Inc., the consultants who prepared the site plan. Also attending on behalf of Baltimore County in support of the requested relief were Arnold

“Pat” Keller, Director of the Office of Planning, and Carl Richards, Zoning Supervisor with the Zoning Review Office. There were no Protestants or other interested persons in attendance.

Testimony and evidence offered revealed that the subject property is an irregular, rectangular-shaped parcel located at the southwest corner of York Road, on the south side of Washington Avenue between York Road and Joppa Road, in the C.T. District of Towson. Across the street from the subject property to the east is the Prospect Hill Cemetery. Vehicular and pedestrian traffic at the intersection of York Road and Washington Avenue is controlled by a traffic signal, striping and walkways. The property contains a net area of 1.36 acres, more or less, zoned B.M.-C.T. and is presently unimproved. The majority of the property is paved and currently used for parking. SunTrust Bank intends to improve the property with a free-standing full service bank branch, as shown on the site plan. In addition, an aerial photograph was marked and accepted into evidence as Petitioner’s Exhibit 4, depicting existing conditions on the subject property and in the surrounding area. The property is surrounded by commercial uses and is situated at a highly visible “gateway” entrance to the core area of downtown Towson, and as such is subject to evaluation by the Design Review Panel (DRP), whose scrutiny and recommendations are binding on the property.

As noted above, the subject property is zoned B.M.-C.T., which is a business zoning classification. The Zone permits banks with drive-through lanes as a matter of right. Thus, the proposed use is expressly permitted on the subject property under the Zoning Regulations.

Petitioner’s counsel, Ms. Dopkin, introduced Messrs. Kellman and Turnbaugh, who were qualified and accepted as experts in zoning and development in Baltimore County and interpretation of the Zoning Regulations. Much of their testimony was proffered by Ms. Dopkin who described in detail the physical features of the site, and indicated that the unique location in

the C.T. District of Towson subjects the proposal to the stringent design standards and principles imposed by the “Walkable District Resolution,” the Towson Community Plan, and the Urban Design Principles adopted by Tomorrow’s Towson. Representatives of SunTrust Bank have worked closely with the Planning Office, appearing four times before the Design Review Panel over nearly an eighteen month period, to achieve a plan that satisfies the design standards, policies and goals of that Panel. Ms. Dopkin explained that the DRP requirement to relocate the building and reconfigure internal traffic on the site are what drive the need for the variance, and have made strict compliance with the stacking requirements of Section 409 of the B.C.Z.R. not just impractical, but impossible.

The free-standing bank branch, originally submitted as a one-story structure, will have a two-story brick façade and will be situated fairly close along the street edge of both York Road and Washington Avenue. SunTrust has modified its plan, again in compliance with DRP requirements, to provide specific landscaping treatments, sidewalk and paving finishes, appropriate signage and lighting. In addition, on-site parking has been reduced as recommended by the DRP. SunTrust has further designated an area of the site at the intersection of York Road and Washington Avenue for Baltimore County to install a Towson Gateway monument or sign to signify the “entrance” into downtown Towson.

Planning Director Pat Keller testified in support of SunTrust’s proposal, noting that the subject project is the first to be reviewed under the Walkable District Resolution and the Urban Design Principles adopted by Tomorrow’s Towson. Mr. Keller further stated that compliance with the guidelines is mandatory, thus making strict compliance virtually impossible. He also acknowledged the cooperation and flexibility of SunTrust in working with the County to realize the vision for Towson.

Mr. Watson, upon inquiry, addressed operational practices at the bank. His 22 years of experience as an asset manager for commercial real estate, qualified him to testify knowledgeably. He anticipates that this location will have ten employees, and indicated that the bank will be open six days a week, normally from 9:00 AM to 5:00 PM on weekdays and from 9:00 AM to 1:00 PM on Saturdays. Further testimony was offered relating to the overall size of SunTrust Bank (seventh in the country), and its presence in the mid-Atlantic region, of which Baltimore County is a part. In addition to the site plan and aerial photograph, an architectural rendering of the proposed building was marked and accepted into evidence as Petitioner's Exhibit 3, and copies of the DRP minutes (dated March 12, 2008) from its meeting of January 9, 2008, the Office of Planning Comments dated December 3, 2007, and the Design Review Comments dated December 14, 2007 and December 11, 2008 were marked and accepted into evidence collectively as Petitioner's Exhibit 5.

Based on the testimony and evidence presented, I am persuaded to grant the requested relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Specifically, it is clear that this property's location is unique -- both as a gateway to Towson and in the B.M.-C.T. Zone -- and that the additional design requirements to which it is subject distinguishes it from other properties in the Zone. Further, implementation of those design requirements conflicts with the parking regulations regarding stacking, and renders strict compliance with the Baltimore County Zoning Regulations impracticable. The building elevation drawings that were accepted into evidence as Petitioner's Exhibit 3 indicate that the proposed structure addition has been designed in such a way so as to be architecturally and aesthetically in keeping with the vision for Towson.

It is to be noted, however, that the Office of Planning has adopted the recommendations of the DRP, and I believe that these should be imposed as conditions of approval. In addition, a landscaping and lighting plan should be submitted to Avery Harden, the County's Landscape Architect, for review and approval prior to the issuance of any permits. I will incorporate these as conditions to the approval granted as well. Finally, I find that this variance can be granted in harmony with the spirit and intent of the Regulations, and in such a manner as to grant relief without injury to the public health, safety and general welfare.

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

THEREFORE, IT IS ORDERED this 26<sup>th</sup> day of May, 2009 by this Deputy Zoning Commissioner, that Petitioner's Variance request from Section 409.10.A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 6 stacking spaces in lieu of the required 9 for a drive-through bank with 3 transaction stations be and is hereby GRANTED, subject to the following which shall be conditions precedent to the relief granted herein:

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.
2. The Design Review Comments dated December 11, 2008 containing the final recommendations of the Design Review Panel are attached and incorporated herein.
3. Petitioner shall submit a landscape and lighting plan to Avery Harden, the County's Landscape Architect, for review and approval prior to the issuance of any permits.

4. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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