

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
N/Side Radcliffe Road, 176' N of		
Fairmount Avenue	*	ZONING COMMISSIONER
(1015 York Road)		
	*	OF
9 th Election District		
5 th Council District	*	BALTIMORE COUNTY
Round Hollow, LLC, <i>Legal Owner</i>	*	Case No. 2010-0187-A
Safeway, Inc., <i>Lessee</i>		
Petitioner	*	

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by Petitioner, Safeway, Inc. through its Director of Construction Joseph Sullivan, and its attorney, Sebastian A. Cross with Gildea & Schmidt, LLC. The Petition was also signed by Wilbur E. Simmons, III, on behalf of the property owner, Round Hollow, LLC. Petitioner, pursuant to Section 450.4.5(a) of the Baltimore County Zoning Regulations (B.C.Z.R.) requests a variance to: **(1)** permit a total of six (6) wall mounted signs in lieu of the permitted three (3); **(2)** approve five (5) wall mounted signs on a single façade in lieu of two (2) per façade, and **(3)** allow two (2) signs of 285 square feet each in lieu of the maximum permitted 150 square feet per sign. The subject property and requested relief are more particularly described on the site plan and sign elevations submitted, which were accepted into evidence and marked as Petitioner’s Exhibits 1 and 4 respectively.

Appearing at the requisite public hearing in support of the request were Michelle Shelton, real estate manager for Safeway, and John Adair, Safeway’s store designer for Store No. 2979¹.

¹ Safeway, Inc. operates nine (9) stores in Baltimore County. This, the 10th store, will be located within the Towson Commercial Revitalization District and will reuse a long vacant existing building. Safeway is making a significant capital investment in the District and will add a new full-service grocery store to serve the needs of the residents occupying over 1,100 new units in the three-apartment buildings recently completed in the area.

Also appearing were Adam Volanth and Michael Gessell with Bohler Engineering, the civil engineers/land development consultants who prepared the plan. Sebastian A. Cross, Esquire and David Gildea, Esquire, represented the Petitioner. There were no Protestants or other interested persons present, however, it is noted that Richard Parsons, on behalf of the Greater Towson Council of Community Associations (GTCCA), arrived at the conclusion of the hearing, reviewed exhibits and indicated no opposition to the proposed sign package

Mr. Cross proffered the evidence presented at the hearing, and the proffer and exhibits presented were accepted by this Zoning Commissioner. The property at issue in this case is an assemblage of five (5) lots located at the southeast corner of York Road (MD Route 140) and the on-ramp to the Baltimore Beltway (I-695) in Baltimore County. The property consists of 8.5 acres within the B.R. zoning classification. The property has been used as a shopping center known as “Radcliff Center” for many years. There have been a number of “anchor” stores within this center over the years, including more recently the COMP USA and Linens-N-Things stores, which have closed. The other lots are also improved with several free-standing pad sites. Important to the relief requested the Wachovia Bank and CVS pharmacy are positioned on Lots 4 and 5 and located on either side of Radcliff Road that serves as the ingress and egress to the subject Lot 1B. This lot (1B) with its associated uses (Starbucks Coffee, pharmacy, grocery store, Signature Café and Bergmann’s Dry Cleaners) are set back well off of York Road some 80 feet and 70 feet from the on-ramp to the Baltimore Beltway. The signs are needed to reflect a change in the retail operations with the specialty uses being incorporated within the larger retail anchor store rather than in separate adjacent units as is found in older strip centers. Both John Adaire, Safeway’s store designer, and Michelle Shelton, the real estate representative, state that the overall design package and signs are formulated to reposition the site as a successful

contributor to the revitalization of Towson and to better compete with the large “big boxes” such as Target and Wal-Mart that offer overlapping products and services.

Over the years the Radcliff Center has seen varying degrees of success as a shopping center. Recently, however, since the improvements on Lot 1B became abandoned and unoccupied when COMP USA and Linens-N-Things moved out, the site has received a great deal of attention for its role in the revitalization of the Towson area of Baltimore County due to the selection of this location by Safeway, Inc. for one of its full service grocery stores. As outlined above, preparations are underway for this Safeway Store with its associated uses to be located within the shopping center. Mr. Cross proffered, and Ms. VanArsdale and Cynthia Bledsoe² confirmed, that there has been significant cooperation between the Petitioner and Baltimore County on the redevelopment of this center which will serve the premises and many other nearby properties.

The site’s 446 parking space field has 240 feet of frontage along Radcliff Road that circles behind the CVS pharmacy and Wachovia Bank building. As shown on the site plan (Exhibit 1) and the various aerial photographs and pictures submitted (Exhibits 2, 5 and 6), the Safeway store will be set back a total of 440 feet from Fairmount Avenue at the closest point. Views of the store’s front wall-mounted (coffee, pharmacy, grocery, café and cleaners) enterprise signs on the building to be occupied by Safeway and associated uses as shown on Exhibit 4 are obstructed by existing structures located closer to the road, as well as by mature landscaping and a change in elevation between York Road and I-695 and the Safeway store.

² Andrea VanArsdale is the Director of the Commercial Revitalization Program for Baltimore County’s Department of Economic Development. Cynthia W. Bledsoe is the Executive Director of the Greater Towson Committee (GTC). Their testimony and support can be found in Petitioner’s 7A and 7B.

Accordingly, while traveling along these roadways, which are major, high speed thoroughfares, a driver will have a view of the wall-mounted “Safeway” enterprise signs at a distance of approximately 500 feet for a very short period of time – no more than a moment or two if traveling at a reasonable speed. Indeed, whether traveling in a direction from east to west or north to south, a driver will not have a view of the wall-mounted “Safeway” signs until after the driver would have had to make a turn from Fairmount Avenue onto Radcliff Road, that forms a center drive isle accessing the shopping center. Likewise, while traveling from the west in an easterly direction on I-695 such a driver, keeping up with the flow of traffic, would have only a moment or two to view the rear wall-mounted “Safeway” sign and likely not enough time to do anything other than to establish a fix on the store’s location for future access. Finally, while traveling north and south on York Road, a driver would have virtually no view of the wall-mounted Safeway enterprise signs, despite the entrance to the shopping center from the northbound lanes of York Road.³

These factors are persuasive that additional signage in the form requested by the Petitioner in items 1, 2 and 3 of its petition is necessary and warranted with regard to the anchor Safeway store. The two (2) signs that are the subject of the 285 square foot face depicting “Safeway” on the front and rear elevations are less or a reduction in the wall-mounted signage that previously existed for the COMP USA and Linens-N-Things. Specifically, I find that the proposed sign elevations as shown on the site plan and on Petitioner’s Exhibit 4 will make the signage more visible to passers-by and thereby alleviate some of the effects of the peculiarities of this property created by the off-site constraints, i.e., the building’s large setback and limited view shed from public thoroughfares. I note that the proposed design is Safeway’s

³ Similar to the blocked front views caused by the CVS pharmacy and Wachovia Bank, the M&T Bank and vacant Tweeter Stereo & Video store to the west of the subject property block the side views from York Road.

latest prototype of sign, which I consider significant in conveying the importance of this use in Baltimore County's goal of economic revitalization of the area. Furthermore, the wall-mounted signs as requested by the Petitioner will likewise increase the visibility of the use(s) in a manner which will assist with the flow of traffic and draw attention to the use.

Based upon the testimony and evidence offered, I am persuaded to grant the petition for variance. In my judgment, the Petitioner has established that this property is unique and that variance relief is justified to mitigate the practical difficulty which strict adherence to the zoning regulations would inevitably create. I am further satisfied that the Petitioner has complied with the standards set forth in Section 307 of the B.C.Z.R., including establishing that the relief can be granted in such a way that the spirit of the B.C.Z.R. will be observed and public safety and welfare secured. A sign variance, such as those requested by the Petitioner in this case, may be granted where the strict application of the Zoning Regulations would cause practical difficulty to the Petitioner and its property. *McLean v. Soley*, 270 Md. 208 (1973).

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 for Baltimore County this 2nd day of March 2010 that the Petition for Variance seeking relief from Section 450.4.5(a) of the Baltimore County Zoning Regulations (B.C.Z.R.) to: **(1)** permit a total of six (6) wall mounted signs in lieu of the permitted three (3); **(2)** approve five (5) wall mounted signs on a single façade in lieu of two (2) per façade, and **(3)** allow two (2) signs of 285 square feet each in lieu of the maximum permitted 150 square feet per sign, in accordance with Petitioner's Exhibits 1 (site plan) and 4 (sign detail), be and is hereby GRANTED, subject to the following restriction:

