

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
W/S Town Center Place, 43' W of c/line of		
Walker Avenue	*	ZONING COMMISSIONER
(3757 Old Court Road)		
3 rd Election District	*	OF
2 nd Council District		
	*	BALTIMORE COUNTY
Reister Court, LLC, <i>Owner</i>		
Giant of Maryland, LLC, <i>Lessee</i>	*	Case No. 2011-0038-A
Petitioners		

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the Petitioner, Giant of Maryland, LLC through one of its Senior Managers of Construction, Juan Carlos Vivas, and their attorney, Charles B. Marek, III, Esquire of Gildea and Schmidt, LLC. The Petition was also signed by the property owner, Reister Court, LLC by Bradley S. Glaser, its Vice President. Variance relief is requested from the Baltimore County Zoning Regulations (B.C.Z.R.) - Table of Sign Regulations – Attachment 1 (Chart) as follows:

(1) Section 450.4 Chart 1.5(a) to permit twelve (12) wall-mounted enterprise signs for an existing Giant supermarket in lieu of the permitted three (3) and ten (10) wall-mounted enterprise signs on the same building façade in lieu of the permitted two (2) on the same façade; (2) Section 450.4 Chart 1.5(a) to permit wall mounted enterprise signs for the existing Giant supermarket of 160 square feet in lieu of the maximum permitted 150 square feet, and (3) Section 450.4 Chart 1.7(b) to permit a freestanding joint identification sign with seven (7) lines of text in lieu of the permitted five (5). The subject property and requested relief are more particularly described on the site plan and sign package elevations, which were submitted into evidence and marked as Petitioners’ Exhibits 1 and 2 respectively.

Appearing at the requisite public hearing in support of the requests were Ronald Brumbaugh, Senior Manager of Construction for Giant, Mark A. Johnston of Gutschick, Little &

Weber, P.A , the civil engineering firm who prepared the site plan(s) for the project, and Warren Weaver of Gable Signs. Charles B. Marek, III, Esquire represented the Petitioner at the hearing. There were no Protestants or other interested persons present.

As a preliminary matter, Mr. Marek noted that there was a negative comment from the Office of Planning in the file regarding the freestanding sign request. According to the Planning comment, this property exists within the Pikesville Commercial Revitalization District. As such, it is subject to the Pikesville Design Committee and District Guidelines adopted in 2006. Guidelines exist for the type and size of identification signs (monument signs are preferred) as well as a myriad of development issues. According to the Office of Planning's analysis, while the freestanding signage did not meet the criteria set out in the guidelines, the wall-mounted sign package was acceptable. Therefore, Mr. Marek informed the undersigned that Giant had discussed the comment and decided to move to withdraw its request to legitimize the existing freestanding signage. As such, this requested relief has been withdrawn and, unless further relief is granted, will likely be phased out over time pursuant to B.C.Z.R. Section 450.8.D.

Mr. Marek proffered the evidence presented at the hearing, and the proffer and exhibits were accepted into the record of the case. The property in question is the "Center Court" shopping plaza in the Pikesville area near the intersection of Old Court Road (MD Rte. 133) and Town Center Place. While having access from the aforementioned public roads, the center also is adjacent to Foley Lane, Mercer Avenue and what was formerly known as Old Court Road (which was relocated to the current MD. Rte. 133 position). The site is approximately 5.6 acres and is zoned B.L.-C.T. The center is improved with a stand alone Giant supermarket, a multi-tenant retail building and a stand-alone PAD site bank. The Giant supermarket is the largest tenant in the center and considered the "anchor" store. In addition to being the anchor store, testimony revealed that Giant has a total of twelve (12) stores in Baltimore County and employs

roughly 1,200 people. The chain is an important economic driver of the County, as well as the State of Maryland, and works with local businesses and farms.

Giant is going through a global reimagining of its stores, whereby the longstanding “big G” signage is being replaced with a “fruit-bowl” type logo and associated Giant lettering. As part of this change over from the old trademark to the new, Giant is upgrading not only the sign package, but also has allocated a significant sum to upgrade the interior of these stores. This reimagining to the “fruit-bowl” logo and associated signage will take place not only in Baltimore County, but across Maryland, Virginia, Pennsylvania and the other markets of Giant.

Testimony also focused on the aspects particular to the property that make it appropriate for variance relief. The shape of the property is uneven, narrowing in the rear by Walker Avenue and irregularly expanding as it approaches Old Court Road. Drivers traveling to this store will turn onto Old Court Road from Reisterstown Road, and the wall-mounted signage from this angle is well over 500 feet away. Likewise, this signage is obscured by development along Old Court Road. Furthermore, due to the peculiar alignment of the roads in encircling the supermarket building, it gives the rear and sides of the building unusual visibility. This finding is bolstered by the fact that a variance has previously been requested and approved for the center in Case No. 01-234-A. In that case, the property was also deemed to possess inherent characteristics that necessitated a variance in relation to the setbacks necessary for the Giant building.

These peculiar aspects of the property work in concert to create a practical difficulty for the supermarket, which is the inability to adequately alert the customers to their presence in the center as well as their multitude of services. This leads to decreased economic vibrancy of the store and the center as a whole. Due to the consolidation of uses under one roof, stores with

large building footprints (i.e. big box) are unable to adequately advertise their services. I believe that by granting the variance, the Petitioner is able to remedy this practical difficulty.

The testimony and evidence also showed that the granting of the variance would be in the spirit and intent of the zoning regulations. The wall mounted signage permitted at this center, without relief, would be three (3) signs that are 150 square feet each (450 square feet). This is in keeping with the size and scale of the proposed signage delineated on Exhibit 2 and the existing Giant sign on the rear of the property, which will remain. Furthermore, the sign regulations do attempt to allow stores to adequately advertise their services, and I believe that this relief is in keeping with that and other goals of the signage regulations. Lastly, customer recognition and identification of the stores is important as this reimagining is occurring not just in Baltimore County, but throughout all of Giant's operation across counties and states.

The testimony also bears that the granting of the variance will be in the interest of the public. The new sign package will utilize light-emitting-diode (LED) technology for illumination, thereby reducing the energy consumption by roughly ninety (90%) percent. The testimony also showed that the wall-mounted signage would be in keeping with the standards of the Pikesville Revitalization Guidelines. Warren Weaver's testimony, through the proffer, was that his opinion concurred with that of the Office of Planning that the guidelines had been followed for the wall-mounted signage.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth herein, the wall-mounted enterprise sign relief requested shall be granted and the relief related to the freestanding joint identification sign shall be dismissed.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 20th day of October 2010 that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (B.C.Z.R.) - Table of Sign Regulations – Attachment 1 (Chart) - to permit

the following: (1) Section 450.4 Chart 1.5(a) for twelve (12) wall-mounted enterprise signs for an existing Giant supermarket in lieu of the permitted three (3) and ten (10) wall-mounted signs on the same building façade in lieu of the permitted two (2), and (2) Section 450.4 Chart 1.5(a) to allow wall mounted enterprise signs for the existing Giant supermarket of 160 square feet in lieu of the maximum permitted 150 square feet, in accordance with Petitioners' Exhibits 1 and 2, be and is hereby GRANTED, subject to the following restriction:

ADVISORY: The Petitioner is advised that it may apply for any required permits 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 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.

IT IS FURTHER ORDERED that the portion of the Variance Petition requesting approval to permit a freestanding joint identification sign with seven (7) lines of text in lieu of the permitted five (5), be and is hereby DISMISSED.

Any appeal of this Order shall be taken in accordance with Baltimore County Code (B.C.C.) Section 32-3-401.

WJW:dlw

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