

IN RE: PETITION FOR VARIANCE
E side of York Road; 690 feet NW of
the c/l of Industry Lane
8th Election District
3rd Councilmanic District
(10139 York Road)

BKL York II, LLC
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **CASE NO. 2011-0093-A**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by Bruce Mortimer, Authorized Representative, on behalf of the legal owner of the subject property, BKL York II, LLC. Petitioner is requesting Variance relief from the Table of Sign Regulations set forth in Section 450.4 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows:

From Attachment 1.5(g) to permit:

- A. A total of 2 freestanding enterprise signs in lieu of the maximum permitted 1 freestanding enterprise sign per franchise agreement held by the dealership (signs A and B); and
- B. A freestanding enterprise sign with a maximum height of 25.59 feet in lieu of 25 feet (sign A); and
- C. A freestanding enterprise sign with a maximum area, in square feet, permitted within the face of a sign of 72 square feet in lieu of the maximum area permitted of 50 square feet per face (sign A); and
- D. A freestanding enterprise signage with a maximum aggregate face area, in square feet, permitted within the face area of the signage of 122 square feet in lieu of the maximum area permitted of 50 square feet (signs A and B).

From Attachment 1.5(a) to permit:

- A. 4 wall-mounted enterprise signs per premises in lieu of the maximum of 3 wall-mounted enterprise signs permitted per premises (signs D, E, F and G); and

- B. 4 wall-mounted enterprise signs per façade in lieu of the maximum of 2 wall-mounted enterprise signs permitted per façade (signs D, E, F and G); and
- C. A wall-mounted enterprise sign with a maximum face area, twice the length of the wall to which the sign is affixed (2 x 32), permitted within the face of a sign of 80 square feet in lieu of the maximum area permitted of 64 square feet per sign (sign D).

From Attachment 1.3 to permit:

- A. A freestanding directional sign with a maximum face area, in square feet, permitted within the face of a sign of 7 square feet in lieu of 3 square feet per face (sign C); and
- B. A wall-mounted directional sign with a maximum height of 10 feet in lieu of the maximum permitted height of 6 feet in nonresidential zones (sign H); and
- C. A wall-mounted directional sign with a maximum height of 13 feet in lieu of the maximum permitted height of 6 feet in nonresidential zones (sign J); and
- D. A wall-mounted directional sign with a maximum face area, in square feet, permitted within the face of a sign of 16 square feet in lieu of the maximum area permitted of 3 square feet per face (sign J); and

For such other and further relief as may be deemed necessary by the Zoning Commissioner for Baltimore County. The subject property and requested relief are more fully described on the redlined site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the Variance requests were Bruce Mortimer on behalf of Petitioner BKL York II, LLC and Jason T. Vettori, Esquire, and David Gildea, Esquire, attorneys for Petitioner. Also appearing in support of the relief was James Matis with Matis Warfield, the professional engineer who prepared the site plan. Attending as an interested citizen was Eric Rockel of 1610 Riderwood Drive in Lutherville.

Testimony and evidence offered revealed that the subject property is rectangular shaped and contains approximately 3.4285 acres, more or less, zoned primarily B.M. and B.M.-A.S., with a very small area of M.L.-A.S. The property is located on the east side of York Road, just north of Industry Lane, in the Cockeysville area of Baltimore County. The property is improved with an

existing 30,000 square foot one-story masonry building that is presently used as an auto dealership. By way of background, the property owner and Anderson's group of auto dealerships (referred to collectively as "Petitioner") is undergoing a re-organization of its dealership brands from their original location in Baltimore City to locations in the County, particularly this area of York Road north of Cranbrook Road and south of Warren Road. As part of this reorganization, Petitioner is relocating its Anderson Honda dealership to the subject site. The proposed signage is depicted on the colorized site plan and the computer animated signage detail that were marked and accepted into evidence as Petitioner's Exhibits 2 and 3, respectively.

In support of the variance requests, Petitioner's attorney, Mr. Vettori, discussed Petitioner's signage needs as well as Bruce Mortimer's efforts at educating the nearby residential community and generating their support for the signage plan. He also explained that the need for the variances is driven by the unique layout of the property and specifically the location of the building, which sits back substantially from York Road. The space between the road and the building is filled with on site parking spaces. Additionally, the view from York Road north of the dealership when traveling in a southerly direction is hindered by the nearby terrain and the crest of the hill on approach to the property. That, combined with the relative narrowness of the property (approximately 260 feet wide) makes the view into the site and the location of the dealership's services difficult to delineate without clear and fairly prominent signage.

Mr. Vettori also indicated that the proposed signage is very similar to Honda's national branding efforts and desire to have a relatively uniform and consistent look throughout its dealerships. Moreover, the proposed signs will in large measure be recycled from the dealership downtown and used again in the new dealership at the subject site.

Mr. Rockel also provided testimony in response to the proposal in his individual capacity and on behalf of the Greater Timonium Coordinating Council. His remarks reflected general support for the signage, indicating that it appears to be very typical of “Honda” signage that is utilized elsewhere. He did express concern, however, about the proposed changeable copy sign and the frequency with which it will be changed in a given day. In response, Mr. Vettori indicated Petitioner has agreed that the copy would be changed no more than four times per day and would be related and ancillary to the commercial activity on site.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated October 28, 2010 which indicates that they do not oppose the request provided that the proposed changeable copy sign will not violate the current regulations. All of the signs requested in the variance are typical of a Honda car dealership and there is no opposition from the surrounding communities.

Based upon the testimony and evidence presented, I am persuaded to grant the request for variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. I agree that the layout and configuration of the site, combined with the relative narrowness of the property’s width, and the crest of the hill to the site from a southerly direction, drives the need for the proposed signage and the attendant variance relief. I also find that strict compliance with the Zoning Regulations would result in practical difficulty or unreasonable hardship upon Petitioner. If the requested relief were not granted, Petitioner would not have the ability to properly direct customers to the site and within the site itself; moreover, Petitioner would also be forced to deviate from signage that has become a staple within Honda’s own corporate branding. Petitioner would also lose out on a great opportunity to re-use and recycle existing signage from its downtown dealership, thereby wasting

perfectly adequate, existing resources. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. In my view, the proposed signage will not overwhelm the site and will enable customers and potential customers to access the property and efficiently navigate the site and locate the services they wish to utilize, whether it be new or used car sales, or parts and service. I am also impressed with the letter of support dated October 20, 2010 from Christian D. Harvey of the Monterey Improvement Association (“MIA”), which was marked and accepted into evidence as Petitioner’s Exhibit 5. Mr. Harvey indicates in his letter that his community is located directly behind the dealership to the east, and that his Association has been in regular contact with Mr. Mortimer and the parties have reviewed and discussed the various signage proposals. He concludes that MIA is supportive of the variance requests and that is also a persuasive factor in Petitioner’s favor.

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

THEREFORE, IT IS ORDERED this 8th day of December, 2010 by this Deputy Zoning Commissioner that Petitioner’s Variance requests as follows:

From Attachment 1.5(g) to permit:

- A. A total of 2 freestanding enterprise signs in lieu of the maximum permitted 1 freestanding enterprise sign per franchise agreement held by the dealership (signs A and B); and
- B. A freestanding enterprise sign with a maximum height of 25.59 feet in lieu of 25 feet (sign A); and
- C. A freestanding enterprise sign with a maximum area, in square feet, permitted within the face of a sign of 72 square feet in lieu of the maximum area permitted of 50 square feet per face (sign A); and

- D. A freestanding enterprise signage with a maximum aggregate face area, in square feet, permitted within the face area of the signage of 122 square feet in lieu of the maximum area permitted of 50 square feet (signs A and B); and

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- C. A wall-mounted enterprise sign with a maximum face area, twice the length of the wall to which the sign is affixed (2 x 32), permitted within the face of a sign of 80 square feet in lieu of the maximum area permitted of 64 square feet per sign (sign D); and

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- C. A wall-mounted directional sign with a maximum height of 13 feet in lieu of the maximum permitted height of 6 feet in nonresidential zones (sign J); and
- D. A wall-mounted directional sign with a maximum face area, in square feet, permitted within the face of a sign of 16 square feet in lieu of the maximum area permitted of 3 square feet per face (sign J),

be and are all hereby **GRANTED**, subject to the following which are conditions precedent to the granting of the relief:

1. Petitioner may apply for its building permit 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 such time as the 30-day appellate process from 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 proposed changeable copy sign shall not be changed more than four (4) times daily.

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