

<b>IN RE: PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
W side of Bel Air Road; 331 feet S the	*	DEPUTY ZONING
c/l of Rossville Blvd.		
14 <sup>th</sup> Election District	*	COMMISSIONER
6 <sup>th</sup> Councilmanic District		
(7920 Bel Air Road)	*	FOR BALTIMORE COUNTY
<b>Putty Hill Associates, LLC</b>	*	
<i>Legal Owner</i>		
	*	<b>Case No. 2011-0126-SPHA</b>
<b>Giant of Maryland, LLC</b>		
<i>Contract Lessee</i>	*	

\* \* \* \* \*

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before this Deputy Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the property owner, Putty Hill Associates, LLC by Gregg Birdsall, an authorized signatory, and the contract lessee, Giant of Maryland, LLC through one of its Senior Managers of Construction, Juan Carlos Vivas, and its attorney, Charles B. Marek, III, Esquire of Gildea and Schmidt, LLC. Petitioner is requesting Special Hearing relief in accordance with Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows:

- To confirm that the existing Putty Hill Plaza shopping center and the stand alone Dunkin Donuts retail store are not both within the same premises; and
- To confirm that it is permitted to retain a freestanding enterprise sign for a stand alone PAD site; and
- For such and further relief as may be required by Zoning Commissioner.

Petitioner is also requesting Variance relief as follows:

- From Section 450.4 Attachment 1.5.d of the B.C.Z.R. to permit 10 wall-mounted enterprise signs for the existing Giant Supermarket in lieu of the permitted 1; and
- From Section 450.4 Attachment 1.7(b) of the B.C.Z.R. to permit retention of the existing freestanding joint identification sign of 192 square feet in lieu of the permitted 165 square feet; and
- From Section 450.4 Attachment 1.7 (b) of the B.C.Z.R. to permit retention of the existing freestanding joint identification sign that includes 6 lines in lieu of the permitted 5 lines; and
- For such other further relief as may be required by the Zoning Commissioner.

The subject property and requested relief are more fully described on the site plan and signage details that were marked and accepted into evidence as Petitioner's Exhibits 1 and 2, respectively.

Appearing at the public hearing in support of the Petition were Ronald Brumbaugh, Senior Manager of Construction for Giant, Mark Johnston of Gutcheck, Little and Weber, the civil engineer for the project, and Alan Nethen of Gable Signs. Charles B. Marek, III represented the Petitioner at the hearing. There were no Protestants or other interested persons present at the hearing.

The special hearing relief requests were each dealt with as preliminary issues. First, Mr. Marek requested a dismissal of the Special Hearing relief that dealt with a freestanding sign for a stand alone PAD site. He noted that he and the other parties present were there to represent the interests of Giant and the stand alone PAD site was for Bank of America. In light of this, it was agreed that the special hearing relief dealing with this particular aspect of the site was unnecessary and should be dismissed. The special hearing relief relating to the determination of what was

considered the “premises” was also dealt with through oral argument. “Premises” is defined in B.C.Z.R. Section 450.3 as

A recorded lot, or in the case of a multi-occupant lot such as a shopping center, office park or industrial park, the total area of the development under common ownership or control. “Premises” also means two or more contiguous lots under common ownership, leasehold or other assignment of interest in real property which are used as a unified parcel.

While the subject of the hearing was the Putty Hill Plaza, contiguous to the site is a property improved with a Dunkin Donuts. The Dunkin Donuts has a separate entrance and is self parked; however, it does have direct vehicular access to the Putty Hill Plaza. If these two properties were considered one premises, the existing freestanding Dunkin Donuts sign and the existing freestanding joint enterprise sign for the Putty Hill Plaza, each along Belair Road, would exist within 100 feet of each other in violation of B.C.Z.R. Section 450.5.B.4.b. Mr. Marek entered into evidence as Petitioner’s Exhibits 3 and 4 two separate deeds for each of the properties. It was shown that the Dunkin Donuts property was owned and operated by DB Real Estate Assets I, LLC, a non-affiliate of Putty Hill Associates, LLC. Therefore, because there is a lack of coordinated control over both properties, it is clear that the properties should not be considered part of the same “premises.”

Continuing with the Petition for Variance aspects of the relief requested, 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 “Putty Hill Plaza” near the intersection of Belair Road and Rossville Boulevard. The property has one entrance on Belair Road and another off of Rossville Blvd. The site is approximately 10.7 acres and is zoned B.M.-A.S. The center is improved with a multi-tenant retail building and a stand-alone PAD site for Bank of America. 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 1200 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 re-imaging 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 changeover 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 re-imaging to the “fruit-bowl” logo and associated signage will take place not only in Baltimore County, but across Maryland, Virginia, Pennsylvania any 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 unusual for the area because of its significant depth. When driving along Belair Road potential patrons would be between 450 and 530 feet away from the building face. The property is also irregularly shaped and is much wider in the rear away from Belair Road (~790 ft.) and much narrower in the front (~390 ft.). Additionally, Belair Road in this area is a higher speed thoroughfare as it is very close to the Belair Road – Interstate 695 interchange. Additionally the off-site development, including the neighboring parcel to the east and the Dunkin Donuts site act as significant obstructions to the view into the property.

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. In addition the store, due to the consolidation of uses under one roof, these stores with large building footprints (i.e. big box) stores are unable to adequately advertise their services. I believe that the granting of the variance is able to remedy this practical

difficulty. Allowing multiple signs will give customers an opportunity to recognize the store from various points along their drive and not just one vantage point.

Moreover, 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 one sign that is 528 sq. ft. (two times the length of the wall to which the signage is affixed). The wall mounted sign package would be 336 square feet or only sixty-four percent (64%) of the size permitted as of right. 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 re-imaging 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 percent (90%). The freestanding signage will also assist the flow of traffic as it will alert customers to the presence of the store and give them the time they need to properly and safely adjust their driving to accommodate their supermarket trip. Given this is a heavily trafficked area and high speed traffic flow, this will be a benefit. Therefore, the variance to permit ten (10) wall mounted signs and a freestanding joint id sign of 192 square feet and six lines should be granted.

Pursuant to the advertisement, posting of the property and public hearing on the Petitions held, and for the reasons set forth above, the Petitions for Special Hearing and Variance should be granted and the Special Hearing relief related to the freestanding signage and bank sign should be dismissed as moot.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 7<sup>th</sup> day of December, 2010 that Petitioner's Special Hearing request in accordance with Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to confirm that the existing Putty Hill Plaza shopping center and the stand alone Dunkin Donuts retail store are not both within the same premises be and is hereby **GRANTED**; and

IT IS FURTHER ORDERED that the Special Hearing request to confirm that Petitioner is permitted to retain a freestanding enterprise sign for a stand alone be and is hereby **DISMISSED** as **MOOT**; and

IT IS FURTHER ORDERED that Petitioner's Variance requests as follows:

- From Section 450.4 Attachment 1.5.d of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit 10 wall-mounted enterprise signs for the existing Giant Supermarket in lieu of the permitted 1; and
- From Section 450.4 Attachment 1.7(b) of the B.C.Z.R. to permit retention of the existing freestanding joint identification sign of 192 square feet in lieu of the permitted 165 square feet; and
- From Section 450.4 Attachment 1.7 (b) of the B.C.Z.R. to permit retention of the existing freestanding joint identification sign that includes 6 lines in lieu of the permitted 5 lines,

be and are hereby **GRANTED**.

The relief granted herein is subject to the following conditions:

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.

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