

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
SW Side of York Road, 225' SE of		
Fairmount Avenue	*	OFFICE OF
9 th Election District		
5 th Councilmanic District	*	ADMINISTRATIVE HEARINGS
(934 York Road)		
	*	FOR BALTIMORE COUNTY
McDonald's Corporation		
Petitioner	*	CASE NO. 2011-0245-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for consideration of a Petition for Variance filed by Jeffrey Bell, Project Manager, for McDonald's Corporation ("McDonald's"), the owner of the real property known as 934 York Road (the "Property"). Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations ("B.C.Z.R.") as follows:

- From Section 450.4 Attachment 1,3 (VII) of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a directional sign of 10.7 feet in height in lieu of the permitted 6 feet; AND
- From Section 450.4 Attachment 1, 3 (VII) of the B.C.Z.R. to permit two (2) directional signs of 9.71 feet in height in lieu of the permitted 6 feet; and
- From Section 450.4 Attachment 1, 5(a)(VI) of the B.C.Z.R. to permit four (4) wall-mounted enterprise signs on the building facades in lieu of the permitted three (3) signs; and
- From Section 450.4 Attachment 1, 3(II) of the B.C.Z.R. to permit a canopy-type directional sign in lieu of the permitted wall-mounted or free-standing sign,
- From Section 450.5.B.3.b of the B.C.Z.R. to permit erection of the sign above the face of the canopy in lieu of its erection on the face of the canopy,
- From Section 450.4 Attachment 1, 3(V) of the B.C.Z.R. to permit four (4) free-standing directional signs having a face area of 9.6252 square feet in lieu of the permitted 8 square feet, and

- From Section 450.4 Attachment 1, 3(a)(IX) of the B.C.Z.R. to permit four (4) free-standing directional signs having a company name or logo of 59.74% in lieu of the permitted 30% of the total sign area.

The subject property and requested relief are more fully described on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 2.

Appearing at the requisite public hearing in support of the variance request was Jeffrey Bell, Project Manager for McDonald's Corporation, Iwona Rostek-Zarska of Baltimore Land Design Group, Inc., the consulting engineer who prepared the site plan for the Property, and Stanley S. Fine, Esquire, and Caroline Hecker, Esquire, attorneys for Petitioner. No Protestants attended the hearing, nor were any letters of protest or objection received by this Office. Dick Parsons and Donald Gerding attended the hearing, and both indicated they had no objection to the requested relief.

The case proceeded by proffer, and revealed that the Property is approximately .711 acres in size, and is zoned B.R.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse comments received from any of the County reviewing agencies.

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 also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioner.

The Petitioner is in essence giving the restaurant a "facelift," and the elevation drawings (admitted as Petitioner's Exhibit 5) reveal that this will be a handsome structure that will improve the look of the area. Ms. Zarska testified – via proffer – that the subject property is quite small (approximately .7 acres) and future improvements are obviously constrained by the existing

restaurant and site conditions. Also, Ms. Zarska explained that the property sits back off of York Road in an extremely busy commercial corridor, which partially obstructs the view of passing motorists. These unique conditions would cause Petitioner to experience practical difficulty or unreasonable hardship if the B.C.Z.R. was strictly enforced, since Petitioner would be unable to position its signage in such a way so as to catch the attention of passing motorists, which is, after all, the purpose of signs.

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. Initially, no letters of protest or opposition were received, and no Protestants or opponents attended the public hearing. Messrs. Parsons and Gerding, both of whom are active in and extremely knowledgeable concerning Towson-area community affairs, indicated they thought the proposed “facelift” would be a positive addition to the community. Finally, neither the Baltimore County Department of Economic Development or the surrounding community associations (Greater Towson Council of Community Associations or Towson Park) voiced any concerns.

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 7th day of April, 2011 by this Administrative Law Judge that Petitioner’s Variance request from the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows:

- From Section 450.4 Attachment 1,3 (VII) of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a directional sign of 10.7 feet in height in lieu of the permitted 6 feet; AND

- From Section 450.4 Attachment 1, 3 (VII) of the B.C.Z.R. to permit two (2) directional signs of 9.71 feet in height in lieu of the permitted 6 feet; and
- From Section 450.4 Attachment 1, 5(a)(VI) of the B.C.Z.R. to permit four (4) wall-mounted enterprise signs on the building facades in lieu of the permitted three (3) signs; and
- From Section 450.4 Attachment 1, 3(II) of the B.C.Z.R. to permit a canopy-type directional sign in lieu of the permitted wall-mounted or free-standing sign,
- From Section 450.5.B.3.b of the B.C.Z.R. to permit erection of the sign above the face of the canopy in lieu of its erection on the face of the canopy,
- From Section 450.4 Attachment 1, 3(V) of the B.C.Z.R. to permit four (4) free-standing directional signs having a face area of 9.6252 square feet in lieu of the permitted 8 square feet, and
- From Section 450.4 Attachment 1, 3(a)(IX) of the B.C.Z.R. to permit four (4) free-standing directional signs having a company name or logo of 59.74% in lieu of the permitted 30% of the total sign area.

be and are hereby GRANTED, subject to the following:

1. Petitioner may apply for 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 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.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/pz