

**IN RE: PETITION FOR VARIANCE**

Liberty Road, at the SE corner of Church  
Lane and Brenbrook Drive  
2<sup>nd</sup> Election District  
4<sup>th</sup> Council District  
**(8700 Liberty Road)**

New Plan Maryland Holdings, LLC  
*Petitioner*

\* BEFORE THE  
\* OFFICE OF ADMINISTRATIVE  
\* HEARINGS FOR  
\* BALTIMORE COUNTY  
\* **CASE NO. 2012-0192-A**

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County for consideration of a Petition for Variance filed by New Plan Maryland Holdings, LLC. The Petitioner is requesting Variance relief under the Baltimore County Zoning Regulations (“B.C.Z.R.”) with respect to several signs at the proposed Walmart on Liberty Road, as follows:

- Section 450.4 Attachment 1, 7(b) - to permit a freestanding joint identification sign with a maximum sign area/face of 281.67 square feet in lieu of the maximum permitted 150 square feet (Sign 7 on Petitioner’s site plan); and
- Section 450.4 Attachment 1, 5(a) - to permit 7 wall-mounted enterprise signs on the building in lieu of the maximum 3 signs permitted on a building (Signs 1-6 on Petitioner’s site plan); and
- Section 450.4 Attachment 1, 5(a) - to permit 5 wall-mounted enterprise signs on the front building façade in lieu of the maximum 2 signs permitted on a façade (Signs 1-4 on Petitioner’s site plan); and
- Section 450.4 Attachment 1, 5(a) - to permit a wall-mounted enterprise sign with a sign area/face of 298 square feet in lieu of the maximum permitted 150 square feet. (Sign 1 of the Petitioner’s site plan).

The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the public hearing in support of the variance request were Bill Greimel with Centro Properties Group, Brian M. Conlon with Langan Engineering and Environmental Services, the engineering firm that prepared the site plan, and Jim Higgins with MMA Architects. Patricia A. Malone, Esquire and Brian Hammock, with Venable, LLP, represented the Petitioner. There were no Protestants or other interested parties in attendance. The file reveals that the Petition was properly advertised and the site was properly posted as required by the B.C.Z.R., and the file does not contain any letters of opposition or protest.

Testimony and evidence revealed that the subject property is approximately 25.88 acres in size, and contains the Liberty Plaza Shopping Center. Petitioner proposes to construct a Walmart Supercenter on the site (construction should be completed in September 2012) and will in other respects revitalize the aging strip shopping center.

Zoning Advisory Committee (ZAC) comments were received and are made a part of the record of this case. The only substantive comment was received from the Department of Planning, dated March 2, 2012, wherein that agency expressed enthusiastic support for the project.

Based upon the testimony and evidence presented, I will 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 Petitioners.

Under *Cromwell* and its progeny, to obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

*Trinity Assembly of God v. People's Counsel*, 407 Md 53, 80 (2008).

The Petitioner has satisfied this test.

The large site is of irregular dimensions, and its frontage on Liberty Road is partially obstructed by two parcels of property – with improvements – owned by unrelated third parties. In addition, the Walmart store is positioned on the northern portion of the site, farthest removed from Liberty Road. As such, an increase in the number and size of signs for the Supercenter is justified so that motorists on Liberty Road will be able to see the signage and navigate to the appropriate area (i.e., “Pharmacy”, “Outdoor Living”) of the large store.

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. This is demonstrated by the Department of Planning’s support for the project, and the absence of any opposition from neighbors or community groups.

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

THEREFORE, IT IS ORDERED, this 4<sup>th</sup> day of April, 2012 by this Administrative Law Judge that Petitioner’s Variance request under the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows:

- Section 450.4 Attachment 1, 7(b) - to permit a freestanding joint identification sign with a maximum sign area/face of 281.67 square feet in lieu of the maximum permitted 150 square feet (Sign 7 on Petitioner’s Exhibit 1); and
- Section 450.4 Attachment 1, 5(a) - to permit 7 wall-mounted enterprise signs on the building in lieu of the maximum 3 signs permitted on a building (Signs 1-6 on Petitioner’s Exhibit 1);

and

- Section 450.4 Attachment 1, 5(a) - to permit 5 wall-mounted enterprise signs on the front building façade in lieu of the maximum 2 signs permitted on a façade (Signs 1-4 on Petitioner's Exhibit 1); and
- Section 450.4 Attachment 1, 5(a) - to permit a wall-mounted enterprise sign with a sign area/face of 298 square feet in lieu of the maximum permitted 150 square feet. (Sign 1 on Petitioner's Exhibit 1),

be and are hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioner may apply for its building permit and may 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 such time as the thirty (30) day appellate process from this Order has expired. If for whatever reason this Order is reversed, the Petitioner will 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.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:dlw