

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
N/E side of Music Fair Road, 400' SE		
of c/line of Painters Mill Road	*	OFFICE OF
3 <sup>rd</sup> Election District		
2 <sup>nd</sup> Council District	*	ADMINISTRATIVE HEARINGS
<b>(15 Music Fair Road)</b>		
	*	FOR BALTIMORE COUNTY
Aaron Margolis, Trustee, under the		
Will of Ronnie Russel, <i>Legal Owners</i>	*	<b>CASE NO. 2012-0270-A</b>
R & H Toyota, <i>Contract Purchaser/Lessee</i>		
Petitioners	*	

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**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 Jeffrey N. Pritzker, Esquire with Margolis, Pritzker, Epstein & Blatt, PA, on behalf of the legal owner, Aaron Margolis, Trustee under the Will of Ronnie H. Russel, and the contract purchaser/lessee, R & H Toyota, (“Petitioners”). The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.), Section 450.4 Attachment 1.5 (a) and (g), as follows:

- To permit four (4) wall-mounted signs in lieu of the permitted two (2) signs;
- To permit four (4) signs in lieu of three (3) signs on the building, and
- To permit a 108 square foot freestanding sign in lieu of the 50 square foot sign for one franchise.

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

Appearing at the public hearing in support of the variance request was Robert Russel, President of R&H Motors. Jeffrey N. Pritzker, Esquire attended and represented Petitioners. The

Petition was properly advertised and the site was properly posted as required by the B.C.Z.R. There were no Protestants or other interested persons in attendance, and the file does not contain any letters of protest or objection.

There were no ZAC comments received from any of the County reviewing agencies.

Testimony and evidence revealed that the subject property is 11.6274 acres and zoned B.M. – I.M. The property is improved with a large service garage, and services Toyota and Scion brands. Mr. Russel explained the service garage is located far off of Music Fair Road, and that the signage variances were necessary to properly identify the structure as a service facility rather than a new car sales facility. R&H has a new car dealership located on Reisterstown Road (about one mile from the subject property), and sign variances were sought for that location in a related case (2012-0271-A).

Based upon the testimony and evidence presented, I am persuaded to grant the request for variance relief. 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).

Petitioners have met this test.

Petitioners' property is a large parcel (11.6 acres) and it has a very unusual, almost elliptical shape. It is also located far off the road, which makes it harder for passing motorists (i.e., customers) to locate. Thus, it is unique in a zoning sense. Petitioners would suffer a practical difficulty if relief were denied, in that the service facility – which is over 63,000 square feet – would be restricted to two signs, which is simply not sufficient for an enterprise of this magnitude. Finally, the grant of the variance relief will have virtually no impact upon the community. The

four wall mounted signs are modest in size (See Exhibit 1) and the free-standing sign was erected over four years ago with a permit from Baltimore County. Counsel explained that zoning officials told him the Toyota “swoosh” (which is barely visible, as seen on Sign #3, Exhibit 1) should also be counted in the face area calculation, and hence the variance was sought to “legitimize” the current free-standing sign, which will not be changed in any way.

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

THEREFORE, IT IS ORDERED, this 19 day of June, 2012, by this Administrative Law Judge, that Petitioners’ Variance request from the Baltimore County Zoning Regulations (B.C.Z.R.), Section 450.4 Attachment 1.5 (a) and (g), as follows:

- To permit four (4) wall-mounted signs in lieu of the permitted two (2) signs;
- To permit four (4) signs in lieu of three (3) signs on the building, and
- To permit a 108 square foot freestanding sign in lieu of the 50 square foot sign for one franchise,

be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioner may apply for a 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 his 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:pz