

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
N/side of Baltimore National Pike, 1,600'		
From c/line of Nuwood Road	*	OFFICE OF ADMINISTRATIVE
1 <sup>st</sup> Election District		
1 <sup>st</sup> Council District	*	HEARINGS FOR
<b>(6624 Baltimore National Pike)</b>		
	*	BALTIMORE COUNTY
Russels, LLC		
Petitioner	*	<b>CASE NO. 2012-0311-A</b>

\* \* \* \* \*

**ORDER AND OPINION**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by the legal owner, Russels, LLC. The Petitioner is requesting Variance relief from § 450.4 Attachment 1.5(d) of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a total of five wall-mounted signs on the front facing façade in lieu of the permitted one sign for each franchise. 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 for this case was George Castanedd, Wayne Zinn, and Kenneth J. Colbert with Colbert, Matz and Rosenfelt, Inc., the consulting firm that prepared the site plan. Leslie M. Pittler, Esquire, attended as attorney for the Petitioner. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. There were no interested citizens in attendance at the hearing, nor does the file contain any letters of opposition or protest. There were no adverse ZAC comments from any of the County reviewing agencies.

Testimony and evidence revealed that the subject property is 4.8043 acres (209,275 square feet) and is zoned BR. The property, which is of irregular dimensions and is shaped like a panhandle, contains Mazda and Subaru automotive dealerships. The property is located along a

busy section of Route 40, and is surrounded by other commercial enterprises. The Petitioner has recently completed renovations of the dealerships, making a capital investment in excess of \$14 million dollars. As part of the renovations, Petitioner would like to install new signage along the front façade (*See Exhibits 4A and 4B*), and Petitioner also indicated that the relevant franchise agreements for the dealership also dictate the types and sizes of signs that must be used.

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

Petitioner has met this test. As noted earlier, the property has a unique shape, and Mr. Colbert (who was accepted as an expert in land use matters) also noted that there is a 20' change in elevation between the front (road side) and rear of the site.

The Petitioner would experience a practical difficulty if the regulations were strictly enforced, since it would be unable to erect the signs proposed, which are also required by the auto manufacturers. Finally, I do not believe the zoning relief will be detrimental to the community's health, safety and welfare. In addition, Mr. Colbert also opined that the Petitioner satisfied B.C.Z.R. § 450.1.G, which specifies the County's traffic safety and aesthetic requirements for signs.

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

THEREFORE, IT IS ORDERED, this 1<sup>st</sup> day of August, 2012 by the Administrative Law

Judge for Baltimore County, that the Petition for Variance from § 450.4 Attachment 1.5(d) of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a total of five wall-mounted signs on the front facing façade in lieu of the permitted one sign for each franchise, be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon 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 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.

Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:dlw