

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(10300 York Road)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Councilmanic District		
Timonium, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
Timonium Chrysler, Inc.,	*	BALTIMORE COUNTY
<i>Lessee</i>		
Petitioners	*	CASE NO. 2013-0076-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by the legal owner of the subject property, Timonium, LLC, and the lessee, Timonium Chrysler, Inc., (“Petitioners”). The Petitioners are requesting Variance relief from Sections 450.4 Attachment 1 #5(a) and 450.4 Attachment 1 #3, from the Baltimore County Zoning Regulations (B.C.Z.R.), to:

1. Permit 3 Enterprise Wall Signs on the front façade of an auto dealership in lieu of the permitted 2 per façade, and
2. Permit 1 Directional Sign of 35.16 square feet in lieu of the permitted 8 square feet.

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 held for this case was Andy White. Marvin I. Singer, Esquire appeared and represented the Petitioners. 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 Protestants or other interested persons in attendance, and the file does not contain any letters of protest or opposition.

The Zoning Advisory Committee (ZAC) comments were received and made a part of the file. There were no adverse comments submitted from any of the County reviewing agencies.

Testimony and evidence revealed that the subject property is 5.00 acres and is zoned BM-AS. The site is improved with an automobile dealership, known as Don White's Timonium. The site was recently renovated in its entirety, and post-bankruptcy The Chrysler Corporation has changed its logos and brandings for the various car brands under its control. The Petitioner explained that the franchise agreement with Chrysler requires the dealer to have individual signs for each brand, and to comply with this directive the Petitioner sought variance relief.

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).

Petitioners have met this test. The site is irregularly shaped, and as noted by Petitioners' counsel, the topography of York Road changes in such a way that the dealership in effect sits in a "trough" between Warren Road and Waterbird Court. This fact, coupled with dense trees and vegetation to the north of the dealership along York Road, makes it difficult for motorists to identify the showroom. And the task is not made any easier by the fact that three (3) other automotive dealerships are located in the immediate vicinity along York Road, so the proposed signage will enable customers to safely and properly identify the dealership.

If the B.C.Z.R. were strictly enforced, the Petitioners would indeed suffer a practical difficulty and/or hardship, given they would be unable to install the signage required by their franchise agreements. 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 lack of opposition from the community and the lack of negative comments from Baltimore County reviewing agencies. In addition, and as shown on the sign detail and elevation drawings submitted (Exhibits 3 and 4), the proposed signs are attractive and will not in any way cause a traffic hazard.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the variance relief requested shall be granted.

THEREFORE, IT IS ORDERED, this 19th day of November, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Sections 450.4 Attachment 1 #5(a) and 450.4 Attachment 1 #3, from the Baltimore County Zoning Regulations (B.C.Z.R.), to:

1. Permit 3 Enterprise Wall Signs on the front façade of an auto dealership in lieu of the permitted 2 per façade, and
2. Permit 1 Directional Sign of 35.16 square feet in lieu of the permitted 8 square feet,

be and is hereby GRANTED.

The relief granted herein shall be conditioned upon and subject to the following:

1. The Petitioners may apply for any required permits and may be granted same upon receipt of this Order; however the Petitioners are hereby made aware that proceeding at this time is at their 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 Petitioners 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