

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(11350 McCormick Road)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Councilmanic District		
Executive Plaza, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2013-0087-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by David H. Karceski, Esquire, on behalf of the legal owner of the subject property, Executive Plaza, LLC (“Petitioner”). The Petitioner is requesting Variance relief for freestanding signs from Section 450.4 Attachment 1.7(d), of the Baltimore County Zoning Regulations (B.C.Z.R.), as follows:

1. To allow a freestanding joint identification sign without a vehicular entrance (Sign A),
2. To allow sign height of 20' for a freestanding joint identification sign in lieu of the permitted sign height of 12' (Sign E), and
3. To allow freestanding joint identification signs with sign areas/faces of 138 and 141 sq. ft. in lieu of the permitted sign area/face of 75 sq. ft. each (Signs E and F).

In addition, the Petitioner is requesting Variance relief for wall-mounted signs from Section 450.4 Attachment 1.7(e) of the B.C.Z.R., as follows:

1. To allow two wall-mounted joint identification signs on a principal building with sign areas/faces of 29 sq. ft. and 142 sq. ft. in lieu of the one sign permitted per principal building with a sign area/face of 150 sq. ft. (Signs H2 and G), and
2. To allow a wall-mounted joint identification sign on a principal building without a frontage (Sign I).

The letters on the Petition assigned to the various signs in question correspond to the lettering shown on the site plan. In addition, the subject property and requested relief is more fully depicted on the two-sheet site plan that was marked and accepted into evidence as Petitioner's Exhibit 1A and 1B.

Appearing at the public hearing held for this case was Davis Linton with Hill Management Services, Inc., and Bernt C. Petersen, R.L.A., with George William Stephens, Jr. and Associates, Inc., the consulting firm that prepared the site plan. David H. Karceski, Esquire and Justin Williams, Esquire, both with Venable, LLP, appeared and represented 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 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 1,056,896 square feet (24.263 acres) and is zoned ML-IM. The property is improved with four (4) large office buildings, and is situated at the intersection of Shawan and McCormick Roads, a heavily traveled corridor adjacent to the Hunt Valley Towne Center. The Petitioner is in the process of updating and modernizing its signage, and requires variance relief to install those signs depicted on the site plan.

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. The subject property (Executive Plaza) is a large site, and it is located in the midst of the Hunt Valley business community, which is home to many well-known corporations and businesses. The Executive Plaza is interconnected to several of these other corporate office parks, but of course the ownership and tenants at the sites are different, which renders the site unique in a zoning sense. Also, the subject property has frontage on three (3) heavily-traveled roadways, and the office buildings themselves are, in the words of Landscape Architect Bernt Peterson (who was accepted as an expert) "insular to the site," as shown on the photos admitted as Petitioner's Exhibit 4. This factor also serves to make the property unique, and also heightens the need for adequate signage to safely and clearly direct motorists to the site, and to which of the 4 buildings on site they are looking for.

If the B.C.Z.R. were strictly enforced, the Petitioner would indeed suffer a practical difficulty and/or hardship, given they would be unable to install the necessary signage shown on the site plan (Petitioner's Exhibit 1). 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, the relief requested is modest, especially for a property of this size and importance, with a multi-million dollar tax assessment. Finally, 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 3rd day of December, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Variance for freestanding signs from Section 450.4 Attachment 1.7(d) of the Baltimore County Zoning Regulations (B.C.Z.R.), to:

1. To allow a freestanding joint identification sign without a vehicular entrance (Sign A), and
2. To allow sign height of 20' for a freestanding joint identification sign in lieu of the permitted sign height of 12' (Sign E), and (3) To allow freestanding joint identification signs with sign areas/faces of 138 and 141 sq. ft. in lieu of the permitted sign area/face of 75 sq. ft. each (Signs E and F),

be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance for wall-mounted signs from Section 450.4 Attachment 1.7(e) of the B.C.Z.R., to:

1. To allow two wall-mounted joint identification signs on a principal building with sign areas/faces of 29 sq. ft. and 142 sq. ft. in lieu of the one sign permitted per principal building with a sign area/face of 150 sq. ft. (Signs H2 and G), and
2. To allow a wall-mounted joint identification sign on a principal building without a frontage (Sign I),

be and is hereby GRANTED.

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

1. The Petitioner may apply for any required permits 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