

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(6646 Security Blvd.)</b>		
1 <sup>st</sup> Election District	*	OF ADMINISTRATIVE
4 <sup>th</sup> Councilman District		
Meadows Shopping Center, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
Ross Stores, Inc.	*	BALTIMORE COUNTY
Lessee/Petitioners		
	*	<b>CASE NO. 2013-0100-A</b>

\* \* \* \* \*

**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, Meadows Shopping Center, LLC (“Petitioner”). The Petitioner is requesting Variance relief from Section 450.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow three wall -mounted enterprise signs with sign areas/faces of 465 sq. ft., 8 sq. ft. and 8 sq. ft for a tenant within a multi-tenant building in lieu of the one permitted wall-mounted enterprise sign with a sign area/face of 336 sq. ft. 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 & 1B.

Appearing at the public hearing held for this case was Joseph J. Ucciferro, with Bohler Engineering, the firm that prepared the site plan, Jeff Greenberg, Robert Garrick and Chris Coffman. David H. Karceski, Esquire 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 record of this case. The only substantive comment received was from the Department of Planning, which supported the variance relief, but believed the two 8 square foot signs were unnecessary.

Testimony and evidence revealed that the subject property is 12.5 acres and is zoned BL-CCC. The specific site at issue has been vacant for nearly a year, and is situated within a strip shopping center. A new store - - dd's Discounts - - will occupy the space, and though it has 108 stores on the east coast, this is the first store in Maryland.

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 property is uniquely shaped, due in large part to a "carved out" portion used for a Shell service station. In fact, in a recent case (2010-191-A) former Deputy Zoning Commissioner Bostwick found the property to be unique for just this reason. In addition, the site is positioned far off of Security Blvd., and motorist visibility into the site is obscured by the aforementioned service station and McDonald's restaurant.

If the B.C.Z.R. were strictly enforced, the Petitioner would indeed suffer a practical difficulty and/or hardship, since he would be unable to install adequate signage to attract customers to the 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 lack of opposition from the community and the lack of negative comments from Baltimore County reviewing agencies. The dd's Discounts

store/franchise is new to this area, and the proposed signage will enable it to promote the brand and build awareness among local shoppers. The signage does not appear cluttered, and will, in my opinion have little to no off-site impact.

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 27<sup>th</sup> day of December, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Section 450.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow three wall -mounted enterprise signs with sign areas/faces of 465 sq. ft., 8 sq. ft. and 8 sq. ft for a tenant within a multi-tenant building in lieu of the one permitted wall-mounted enterprise sign with a sign area/face of 336 sq. ft., 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.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:sln