

IN RE: PETITION FOR VARIANCE
(11212 Reisterstown Road)
4th Election District
4th Councilman District
Owings Mills Auto Park
Limited Partnership
Petitioner

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2013-0204-A

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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. The Petitioner is requesting Variance relief from Section 450.4 Attachment 1.5(a) of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow a total of five wall-mounted enterprise signs on a single façade of a building in lieu of the permitted three wall-mounted signs, with no more than two on a single facade. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibits 1A and 1B.

Appearing at the public hearing in support of the requests was Brian Fader and Thomas A. Church, PE with Development Engineering Consultants, Inc., the firm that prepared the site plans. David H. Karceski, Esquire 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 substantive Zoning Advisory Committee (ZAC) comments received from any County reviewing agencies.

Testimony and evidence revealed that the subject property is approximately 3.5 acres and is zoned BM. The property is situated within a larger “auto park” (approximately 11 acres) that contains nine (9) brands of motor vehicles for sale. Just across the street from the subject property are dealerships for eight (8) other car brands. The Petitioner in this case has recently renovated its Chrysler dealership, and proposes to install a “sign package” similar to the one used by Chrysler dealers throughout the United States, which will identify each of the five (5) brands of vehicles offered for sale at the dealership. To do so, the Petitioner requires 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).

Petitioner has met this test. The property is of irregular dimensions, and is nestled within a much larger parcel containing other automotive dealerships. As such, it is unique for zoning purposes.

If the B.C.Z.R. were strictly enforced, the Petitioner would indeed suffer a practical difficulty, given it would be unable to comply with manufacturer franchise agreements, which require the installation of such signage. In addition, the Chrysler dealership is set back approximately 215' from Reisterstown Road, and the signage is required to not only identify the brands offered at the subject location, but also to distinguish this dealership from the numerous other new car dealerships and brands within the immediate vicinity. 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 County and/or community opposition.

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 April, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Section 450.4 Attachment 1.5(a) of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow a total of five wall-mounted enterprise signs on a single façade of a building in lieu of the permitted three wall-mounted signs, with no more than two on a single facade, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would 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