

**IN RE: PETITION FOR VARIANCE**  
**(11200 York Road)**  
8<sup>th</sup> Election District  
3<sup>rd</sup> Councilman District  
11200 York Road Holdings LLC  
Petitioner

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BEFORE THE OFFICE  
OF ADMINISTRATIVE  
HEARINGS FOR  
BALTIMORE COUNTY  
**CASE NO. 2013-0207-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)(V) and 1.5(a)(IX) of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow two wall-mounted enterprise signs, each with a sign area/face of 250 square feet, in lieu of the permitted three wall-mounted enterprise signs, with maximum permitted sign face areas of 112 square feet, 112 square feet and 150 square feet per façade. 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 1A & 1B.

Appearing at the public hearing in support of the requests was Brian Diaz and Bill Monk. 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 1.345 acres and is zoned BR-IM and ML-IM. The site is improved with a hotel, and the new owner will operate a Holiday Inn Express franchise. To complete the “rebranding,” the Petitioner proposes to install two wall mounted enterprise signs, as shown on the plans. Exhibits 1A & 1B. Though three such signs are permitted under the B.C.Z.R., the Petitioner requires variance relief with respect to the face area of the signs.

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 hotel is set back somewhat off of York Road, and the topography is such that the road reaches a “peak” near the site, and drops off when travelling north or south of the property. Thus, the property is unique. This uniqueness is reflected in the fact that the hotel will not have a sign on the front façade, since passing motorists have only a brief view of the property before the change in grade obscures the view.

If the B.C.Z.R. were strictly enforced, the Petitioner would indeed suffer a practical difficulty, since it would be unable to install the familiar signs associated with this hotel chain. 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 support of the Department of Planning (DOP), and the lack of 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 29th 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)(V) and 1.5(a)(IX) of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow two wall-mounted enterprise signs, each with a sign area/face of 250 square feet, in lieu of the permitted three wall-mounted enterprise signs, with a maximum permitted sign face areas of 112 square feet, 112 square feet and 150 square feet per façade, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. 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.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:sln