

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(33 E. Padonia Road)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Councilman District		
Padonia Village Shopping Center	*	HEARINGS FOR
A,B& C, Business Trust, Eugene C. Parker		
<i>Legal Owners</i>	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2013-0215-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. The Petitioner is requesting Variance relief from Section 450.4 Attachment 1 of the Baltimore County Zoning Regulations (B.C.Z.R.), with respect to certain existing and proposed signs at the Padonia Village Shopping Center, which was constructed in 1976. At the hearing, the Petition as filed was amended in the following respects: (1) the proposed freestanding joint identification sign on York Road will be 134 square feet, not 105 square feet; (2) In the next to last paragraph of the attachment, the Petitioners seek a maximum of six (6) enterprise signs (wall mounted and/or canopy), not “up to five.” These changes were made to the original zoning petition included in the case file, and were initialed by the undersigned. The subject property and details of each of the existing and proposed signs are more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibits 1A-1C.

Appearing at the public hearing in support of the requests was Haley Gallagher and Matt Bishop, a landscape architect whose firm prepared the plans. David H. Karceski, Esquire with Venable, LLP appeared and represented the Petitioner. Eric Rockel attended the hearing as an

interested citizen. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

The only substantive Zoning Advisory Committee (ZAC) comment was submitted by the Department of Planning, which supported the Petition.

Testimony and evidence revealed that the subject property is approximately 586,753 square feet and is zoned BL-CCC, DR 16 and BL-AS. The property is improved with a shopping center, and the owners would like to update and improve the existing signage, which 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).

Petitioners have met this test. As noted in the proffered testimony of Mr. Bishop (who was accepted as an expert) the property is of irregular dimensions, and is surrounded on four sides by roadways. In addition, and Mr. Rockel conceded this point as well, the stores front onto Padonia Road and sit perpendicular to York Road (the major thoroughfare) which is also a unique factor that justifies the proposed signage to alert motorists to the location of the businesses in the center.

If the B.C.Z.R. were strictly enforced, the Petitioners would indeed suffer a practical difficulty, since they would be unable to install the proposed signage. 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 County and community.

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 31st day of May, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Baltimore County Zoning Regulations (“B.C.Z.R”) as follows: (1) to allow a freestanding joint identification sign on York Rd with a sign area/face of 134 square feet and two freestanding joint identification signs on Padonia Rd. with sign area/faces of 90 sq. ft. and 149 sq. ft. in lieu of the permitted one freestanding joint identification sign with an area/face of 100 sq. ft. on York Rd, one freestanding joint identification sign with an area/face of 150 sq. ft. on Padonia Rd., one freestanding joint identification sign with an area/face of 116 sq. ft. on Hillbrook Ct., and one freestanding joint identification sign with an area/face of 100 sq. ft. on Denison Street (Signs A, B, and C); (2) for freestanding joint identification signs to display a maximum of 12 lines of text with a sign copy a minimum of 1.5 inches in height in lieu of the permitted 5 lines of text and required 8 in. height for sign copy (Signs A, B, and C); (3) to allow two wall-mounted joint identification signs on one road frontage (Signs D and No. 61); (4) to allow a total of four wall-mounted enterprise signs on a single tenant building in lieu of the three signs permitted, with no more than two such signs on any single façade of the building; (5) to allow up to six enterprise signs (wall-mounted and/or canopy) on a building façade with a single separate, exterior customer entrance (Sign Nos. 1, 35, and 63) in lieu of the permitted one sign and to allow two wall-mounted enterprise signs on a side building façade without a separate, exterior customer entrance in lieu of the requirement for a customer entrance on the façade (Sign No. 1); and (6) to allow a canopy sign to extend no more than two ft. below the face of the canopy in lieu of on the face (Sign No. 63), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

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