

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(1312 Bellona Avenue)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Councilman District		
PDG, LLP, <i>Legal Owner</i>	*	HEARINGS FOR
Robert Riederman, M.D.		
<i>Lessee</i>	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2013-0274-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, PDG, LLP and lessee, Robert Riederman, M.D. The Variance was filed pursuant to Baltimore County Zoning Regulations (“B.C.Z.R”) § 450.4 Attachment 1 #5(d)(v) to allow a wall-mounted enterprise sign on a building façade of a multi-tenant building without a separate exterior customer entrance in lieu of the requirement that the façade contain a separate exterior customer entrance. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the public hearing in support of the requests was Heidi Mattingly and Michael Pieranunzi from Century Engineering, the firm that prepared the site plan. David H. Karceski, Esquire appeared as counsel and represented the Petitioners. There were no Protestants or interested citizens in attendance, and the file does not contain any letters of protest or opposition. 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 Zoning Advisory Committee (ZAC) comment was submitted by the Department of Planning (DOP), which expressed support for the petition.

Testimony and evidence revealed that the subject property is approximately 1.2 acres and

is zoned RO, BR and DR 16. The property is improved with a 3 story brick office building (8,186 sf.), and variance relief is needed to install the 48 sq. ft. sign shown on the plan. Exhibit 1.

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. Mr. Pieranunzi testified via proffer that the property was unique given the split zoning, irregular shape of the parcel and a 30' elevation grade change from the front to the rear of the site, as shown on the topographical exhibit. See Exhibit 5. I concur, and believe these factors - - as well as the "disconnected" nature of Bellona Avenue in this vicinity - - render the property unique.

If the B.C.Z.R. were strictly enforced, the Petitioners would indeed suffer a practical difficulty, since they would be unable to identify the location of this health care facility. 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 absence 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 July, 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") § 450.4 Attachment 1 #5(d)(v) to allow a wall-mounted enterprise sign on a building façade of a multi-tenant building without a separate exterior customer

entrance in lieu of the requirement that the façade contain a separate exterior customer entrance, 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