

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(801 York Road)		
9 th Election District	*	OF ADMINISTRATIVE
5 th Councilman District		
CARS-DB4, L.P., <i>Legal Owner</i>	*	HEARINGS FOR
Heritage of Towson, II, Inc.		
<i>Lessee</i>	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2013-0276-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, CARS-DB4, L.P. and lessee Heritage of Towson, II, Inc.. The Variance was filed pursuant to Baltimore County Zoning Regulations (“B.C.Z.R”) §§ 450.4 Attachment 1.5(a) and 450.4 Attachment 1.5(g): (1) to allow a total of five (5) wall-mounted enterprise signs with no more than three such signs on a single façade of the building in lieu of the permitted three wall-mounted enterprise signs with no more than two (2) on a single façade; and (2) to allow a freestanding enterprise sign with a sign area/face of 146 sq. ft. and height of 26 ft.¹ in lieu of the permitted 50 sq. ft. of sign area/face and height of 25 ft. The subject property and requested relief is more fully depicted on the amended site plan that was marked and accepted into evidence as Petitioners’ Exhibits 1A & 1B.

Appearing at the public hearing in support of the requests was Scott Fader and Tom Church. David H. Karceski, Esquire appeared as counsel and represented the Petitioners. Paul Hartman, president of the Greater Towson Council of Community Associations (GTCCA), attended the hearing and indicated that, after reviewing the exhibits, his association did not object

¹At the hearing, Petitioner filed an amended petition, reflecting that the height variance was no longer sought; i.e., the proposed sign will not exceed 25' in height, as permitted by the B.C.Z.R. Exhibit 5.

to the petition. 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 (DOP), which did not oppose the relief.

Testimony and evidence revealed that the subject property is approximately 1.563 acres and zoned BR-AS. The site is improved with a Hyundai new car dealership. The dealership is modernizing its signs on site, and requires variance relief to do so.

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. Church, a professional engineer accepted as an expert, testified via proffer that the site is unique because it occupies a corner lot bound on three sides by public roads, and because there is a significant topographical change through the property. I agree.

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 signs, which are mandated by its franchise agreement with the manufacturer. 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(a) and 450.4 Attachment 1.5(g): (1) to allow a total of five (5) wall-mounted enterprise signs with no more than three such signs on a single façade of the building in lieu of the permitted three wall-mounted enterprise signs with no more than two (2) on a single façade; and (2) to allow a freestanding enterprise sign with a sign area/face of 146 sq. ft. in lieu of the permitted 50 sq. ft. of sign area/face, 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.
- The variance granted herein shall not be transferrable to a future tenant and/or owners of the premises; i.e., it shall not “run with the land.” Any change whatsoever to the signage approved herein will require a public hearing before the Office of Administrative Hearings (OAH).
- The Petitioners shall not install on the premises a freestanding sign advertising used or pre-owned vehicles for sale.

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