

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(841 Kenilworth Drive)		
9th Election District	*	OFFICE OF ADMINISTRATIVE
5 th Council District		
Kenilworth Limited Partnership	*	HEARINGS OF
Legal Owners		
Pike Howard	*	BALTIMORE COUNTY
Contract Purchasers		
	*	CASE NO. 2020-0272-A
Petitioners		
* * * * *		

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by Kenilworth Limited Partnership, Legal Owner and Pike Howard, Contract Purchasers, Petitioners for property located at 842 Kenilworth Drive. The Petitioners are requesting variance relief from Baltimore County Zoning Regulations (“BCZR”) § 450.4 attachment 1.5(d)(vi) to permit a wall mounted enterprise sign on an existing wall without a customer entrance.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”). They did not oppose the requested relief.

Charles Arinder, the representative of the Lessee, appeared at the hearing in support of the Petition. Jennifer Busse, Esq. of Whiteford, Taylor, & Preston represented Petitioner. Michael Pieranunzi of Century Engineer also appeared. His *curriculum vitae* was admitted as Petitioner’s Exhibit 1. The site plan he prepared was admitted as Petitioner’s Exhibit 2. There were no opposing parties or interested citizens. Because there was no opposition to the requested relief Ms. Busse was allowed to proffer the following evidence.

The total area of “The Shoppes at Kenilworth” is approximately 8.4 acres and is zoned BM. The petitioner’s restaurant, “Felipe’s” is located on the northwest side of the complex, which is substantially downgrade and around the corner from the main entrances off of Kenilworth Drive. The restaurant is part of a recent addition to the complex. They have been open since last year and their customers and delivery drivers have complained that the restaurant is hard to locate because of its location and the lack of signage. This proposed sign will help alleviate that problem.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

As discussed above, the site is unique because it is virtually impossible to see from the main entrances to the complex. Petitioner will experience ongoing practical difficulty if the variance is denied because its clients and delivery trucks will have difficulty locating the restaurant. I find that the variance will improve traffic flow and traffic safety and will otherwise be consistent with the spirit and intent of the BCZR.

THEREFORE, IT IS ORDERED, this **22nd** day of **February 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR § 450.4 attachment 1.5(d)(vi) to permit a wall mounted enterprise sign on an existing wall without a customer entrance is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.

Signed _____
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM/dlm