

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(11309-11311 Reisterstown Road) *	OFFICE OF
4 th Election District	
2nd Council District *	ADMINISTRATIVE HEARINGS
Colonial Stoler LLC	
<i>Legal Owner</i> *	FOR BALTIMORE COUNTY
Petitioner *	Case No. 2020-0117-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Variance filed on behalf of Colonial Stoner, LLC, legal owner (“Petitioner”). The Special Hearing is requested under § 450.4 of the Baltimore County Zoning Regulations (“BCZR”) (Table of Sign Regulations) 5(g) (Sign E), to confirm that the sign area/face for a freestanding enterprise sign, which contains the message on the structural and supportive elements of the sign, is 24 sq. ft. In addition, a Petition for Variance was filed under BCZR § 450.4 (Table of Sign Regulations) 5(a) to allow three enterprise signs on one facade in lieu of the permitted three enterprise signs, with no more than two on a single facade (Sign B, C, D); and from BCZR § 450.4 (Table of Sign Regulations) 3(a) to allow a directional sign with a sign area/face of 26 sq. ft. in lieu of the permitted 8 sq. ft. (Sign A); and from BCZR § 450.4 (Table of Sign Regulations) 5(g) to allow a freestanding enterprise sign with a sign area/face of 144 sq. ft. and a height of 19 ft. in lieu of the permitted 50 sq. ft. and 25 ft. in height, if necessary (Sign E).

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. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Barry Stoler appeared in support of the requests. Dick Matz, of the Cobert Matz Rosenfelt, engineering firm also appeared and was accepted as an expert. David H. Karceski, Esq. represented the Petitioner. There were no protestants or interested persons in attendance. However, People's Counsel did submit a letter opposing the requested relief on the grounds that it was barred, at least in part, by the doctrine of *res judicata*.

Substantive Zoning Advisory Committee ("ZAC") comments were received from the Department of Planning ("DOP") dated June 24, 2020. They did not oppose the requested relief, subject to proposed conditions, which will be incorporated into the Order.

The property is approximately 4.03 acres and is zoned BR and D.R. 16. At the outset of the hearing Mr. Karceski submitted and Amended Petition (admitted as Petitioner's Exhibit 1A) that abandoned the variance relief requested in paragraph 3 of the original Petition, which had sought an area variance for a freestanding enterprise sign at the entrance to the property. This is the aspect of the Petition that People's Counsel had urged was barred by *res judicata* – a position I agree with. The Special Hearing relief was also abandoned as it too related to the enterprise sign.

Therefore, Mr. Karceski explained that the only relief they are now seeking relates to the wall mounted signage. Mr. Karceski explained that the subject property is unique because there is a significant north-south grade change along Reisterstown Road, as well as a 23 foot grade change from Reisterstown Road down to where the buildings are sited. Further, the lot is irregularly shaped and the buildings are sited far back from the road. These unique features necessitate the variance relief - one additional sign on the Reisterstown façade, and a 26 sq. ft. directional sign in lieu of the permitted 8 sq. ft. sign.¹

¹ At the hearing the undersigned pointed out that People's Counsel had noted that the property had been found *not* unique in Case No. 2017-0023-SPHA. Mr. Karceski could not explain the basis for that ruling since the property

Variance

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 detailed above, the property is unique in several respects. The significant grade changes and the substantial setbacks of the buildings from the road necessitate the requested sign variances. If these variances are not granted the petitioner would suffer harm and practical difficulty because their clients would have difficulty identifying their business and finding the service department. I find that the relief can be granted within the spirit and intent of the BCZR and without causing harm to the public health, safety or welfare.

THEREFORE, IT IS ORDERED this **8th** day of **October, 2020**, by this Administrative Law Judge, that the Petition for Special Hearing seeking relief pursuant to § 450.4 of the Baltimore County Zoning Regulations (“BCZR”) (Table of Sign Regulations) 5(g) (Sign E), to confirm that the sign area/face for a freestanding enterprise sign, which contains the message on the structural and supportive elements of the sign, is 24 sq. ft. of the Baltimore County Zoning Regulations (“BCZR”) is hereby DISMISSED, WITH PREJUDICE.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief pursuant BCZR § 450.4 (Table of Sign Regulations) 5(a) to allow three enterprise signs on one facade in lieu of the permitted three enterprise signs, with no more than two on a single facade (Sign B, C,

was found to be unique in a more recent case (Case No. 2018-0150-A). And in that case the ALJ had noted that “the property was found to be unique in at least four prior zoning cases dating back to 1974.”

D); and from BCZR § 450.4 (Table of Sign Regulations) 3(a) to allow a directional sign with a sign area/face of 26 sq. ft. in lieu of the permitted 8 sq. ft. (Sign A); and from BCZR § 450.4 (Table of Sign Regulations) be and are hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is 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, Petitioner would be required to return the subject property to its original condition.
- Petitioner shall expeditiously remove the existing non-conforming free standing enterprise sign on Reisterstown Road and replace it with a conforming free standing enterprise sign.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

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

PMM/dlm