

IN THE MATTER OF : BEFORE THE
BLT Cantina, LLC : HOWARD COUNTY
Petitioner : BOARD OF APPEALS
 : HEARING EXAMINER
 : BA Case No. BA 22-001S

.....

DECISION AND ORDER

On July 7, 2022 and August 8, 2022, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the Petition of BLT Cantina, LLC, Petitioner, (Sign Permit Application #S21000429), filed under Section 3.513(b), Subtitle 5 of Title 3, Signs, of the Howard County Code (“Sign Code”), for variances to (A) increase the maximum allowable area of all signs permitted on the lot under Howard County Code 3.501(c)(1)(a) by 41.97 sq. ft., and to allow a new ground-mounted freestanding building monument sign which will be located much closer (20 feet) to the existing right-of-way and will be 11 feet tall (one (1) foot taller than the maximum allowable height of 10 feet based upon the 20-foot set back from the Route 1 right-of-way); and (B) increase the sign area and height allowed under Sec. 3.501(c)(2)(c) to permit the proposed Monument Building Sign to have a sign area of 53.22 sq. ft. (area variance of 33.22 sq. ft.) and a height of 11 ft. (height variance of 1 ft.).

Attached to the Revised Petition filed on March 30, 2022 (“**Petition**”), is a Revised Sign Variance Plan (“**Plan**”) dated April 9, 2020, prepared by The Pettit Group, LLC. (These replaced the Petition and Plan (dated 2/23/22) filed March 9, 2022.)

The Petitioner provided certification that notice of the hearing was advertised and certified that the property was posted as required by the Howard County Code. I viewed the property as required by the Hearing Examiner Rules of Procedure.

The Petitioner was represented by William E. Erskine, Esq. The following persons testified in support of the Petition: Brian W. Cleary, PE, The Pettit Group, LLC. No one appeared in opposition to the petition.

PRELIMINARY MATTER

I considered a request from BLT Cantina, LLC., made orally at the scheduled hearing on July 7, 2022, to amend the Petition to add two (2) additional requested variances under a separate section of the Sign Code. In addition to the variances originally requested under 3.501(c)(1)(a) to increase the permissible area on a Monument Building Sign, the Petitioner requested variances from 3.501(c)(2)(c) to permit the proposed Monument Building Sign to have a sign area of 53.22 sq. ft. (area variance of 33.22 sq. ft.) and a height of 11 ft. (height variance of 1 ft.). The amendment was allowed in an Order dated July 13, 2022. Herein, the “Petition” shall refer to the Petition as amended by the July 13, 2022, Order.

At the August 8, 2022, hearing, I explained that I would be considering the proposed variances under both Sections 3.501(c)(1)(a) and 3.501(c)(2)(c). My reasoning follows.

The Petitioner’s original petition sought a “Size” variance under Section 3.501(c)(1)(a) of the Sign Code which states:

3.501(c) Commercial Districts, Commercial Areas, all Areas Within Downtown Columbia, Industrial Districts and Industrial Areas.

(1) Size.

a. The provisions of this paragraph shall not apply in Downtown Columbia. A total sign area of two square feet for each lineal foot of building frontage shall be allowed. If the building has multiple frontages, an additional sign area of one square

foot for each additional lineal foot of building frontage shall be allowed. The total area of all signs erected on the lot and building shall be within the allowable square footage. Where there are multiple frontages, no more than two square feet of sign area for each lineal foot of building frontage shall be allowed to face that frontage.

The Petitioner characterized the non-wall sign it was proposing as a “Monument Building Sign” which is defined as: “*Sign, monument building* means a sign where the entire base or bottom of the sign is ground-mounted.” Section 3.514(u). The Sign Code does not include separate definitions for either “Freestanding Sign” or “Ground-mounted” sign, although those terms are used in the Sign Code.

When the Department of Inspections, Licenses and Permits (“DILP”) initially reviewed the Petition, it reported in its May 17, 2022, Memorandum (the “Original DILP Memorandum”) that the Petitioner sought a variance under Section 3.501(c)(1)(a) to increase the maximum allowable area of all signs on the lot by 41.97 sq. ft. DILP further stated:

The plan also proposes a new *ground-mounted freestanding building monument* sign which will be located much closer (20 feet) to the existing right-of-way and will be 11 feet tall. This is one (1) foot taller than the maximum allowable height of 10 feet based upon the 20-foot set back from Route 1 right-of-way.

Based on DILP’s characterization of the proposed sign as a “Freestanding Sign,” DILP identified a second section of the Sign Code which it believed would be violated by the proposed sign (and thus require a variance). That Sign Code section is Section 3.501(c)(2)(c) which states:

3.501(c) Commercial Districts, Commercial Areas, all Areas Within Downtown Columbia, Industrial Districts and Industrial Areas.

...
(2) Location.

...
c. *Freestanding signs.* The provisions of this paragraph shall not apply in Downtown Columbia. Where a building does not cover the full area of the property, *business signs may be freestanding or ground-supported and may be located in the front yard.* The height of the sign may not exceed one foot for each two feet the sign is set back from the right-of-way and shall not exceed 26 feet from the grade level to the top of the sign. Freestanding signs shall be

permitted only where there is a minimum of 40 lineal feet of lot frontage. The maximum allowable area for a freestanding sign shall be one square foot for each one foot the sign is set back from the road right-of-way. The largest single face of a freestanding sign shall be considered for the purpose of computing allowable area under this section. No part of the sign shall extend beyond a property line or right-of-way line. Signs satisfying requirements for gas price posting are permitted up to an area of 32 square feet per face. Such signs may be affixed to the main freestanding sign and will not be assessed against the allowable area for the facility nor will they be considered for purposes of determining setback in relation to sign area.

As stated above, the Petitioner characterized the non-wall sign it was proposing as a “Monument Building Sign” which is defined as: “*Sign, monument building* means a sign where the entire base or bottom of the sign is *ground-mounted*.” Section 3.514(u). Clearly, the sign proposed by Petitioner is ground-mounted, and it is also a Monument Building Sign because the *entire base* is ground-mounted.

DILP, however, classified the proposed sign as a “*ground-mounted freestanding building monument sign*.” See Original DILP Memorandum, page 1. Based on DILP’s characterization of the sign as both a Monument Building Sign AND a freestanding sign, DILP stated that variances were needed under both 3.501(c)(1)(a) (“Size”) and 3.501(c)(2)(c) (“Location”). While Petitioner did not believe that the proposed sign is a freestanding sign subject to 3.501(c)(2)(c), it recognized that the language of the Sign Code is confusing and sought, out of caution, a variance under both 501(c)(1)(a) (“Size”) and 3.501(c)(2)(c) (“Location”). After the Petition was amended, DILP prepared an amended memorandum dated July 15, 2022 (“Amended DILP Memorandum”).

I agree that the Sign Code, Section 3.501(c)(2)(c), is confusing. Part of the confusion stems, in my view, from the titling of that section as “Freestanding Sign.” Based on the way the statute is written, one would expect that the entire content of that section 3.501(c)(2)(c) applies

only to freestanding signs. Yet the language refers to business signs, which “may be freestanding or ground-supported” signs. The use of “or” would lead one to conclude that a sign is either a freestanding or ground-supported sign, but not both. Further, some sentences within that section refer to “freestanding sign”, and some sentences refer to “sign” (which could include both freestanding and ground supported business signs).

In further support for the view that a freestanding sign is not also a Monument Building Sign is Section 3.501(c)(2)(g):

3.501(c) Commercial Districts, Commercial Areas, all Areas Within Downtown Columbia, Industrial Districts and Industrial Areas.

...
(3) Location.

...
g. *Monument Building Sign.* In Downtown Columbia, a Monument Building Sign, including its structure, shall be no more than six feet in height. The maximum sign area for a Monument Building Sign is 30 square feet per side or face. Monument Building Signs are exempt from setback requirements.

Section 3.501(c)(2) includes, in separate subsections, standards relating to the permitted location of various types of signs. For instance, Section 3.501(c)(2)(c) applies to “freestanding signs” and 3.501(c)(2)(g) applies to “Monument Building Signs.” The fact that these two types of signs are in separate subsections with varying standards would seem to mean that a sign cannot be both a freestanding sign and a Monument Building Sign.

Because of the confusion in the Sign Code, I will consider the Petitioner’s request for variances from both 3.501(c)(1)(a) (“Size”) and 3.501(c)(2)(c) (“Location”).

FINDINGS OF FACT

Based upon the evidence presented at the hearing, I find as follows:

A. Property. The Property, a TACO BELL site, is located at 6281 Washington Blvd, Elkridge, MD 21075 (“Property” or “Site”). In September 2021, the existing store and all signage were demolished and a larger commercial building and drive-through were constructed at the Site. The new building consists of a 2,753 SF restaurant. The exterior dimensions of the new building are (L) 91.0 ft. x (W) 29.5 ft.

The Property is located on the east side of Route 1 approximately 240 feet north of the intersection of Route 1 and Montgomery Road. The Property has direct access onto Route 1 at a point that is approximately 340.93 feet north of the intersection of Route 1 and Montgomery Road.

The elevation of the Property varies between 212 feet +/- at the northwest corner to 199 feet +/- at the northeast corner. The Property also slopes toward the northeast to an elevation of 202 feet +/- . Because of this sloping topography and to provide room for internal circulation and parking, a required storm water management facility was installed in the central region of the site and toward the rear of the parcel. As a result of these topographic conditions and the need to provide adequate storm water management, parking and internal circulation, the narrow portion of the building is required to face Route 1 resulting in building frontage of only 29.5 ft. Accordingly, the total permitted sign area under the regulations is equal to the Building Frontage (29.5 ft.) x 2 sq. ft. = 59.0 sq. ft.

B. Vicinal Properties. To the northwest is Washington Blvd. (Route 1). Across Route 1 are 6300 Washington Blvd., PSC Elkridge, LLC – industrial, Brick – single story, M- 1 zoning; and 6280 Washington Blvd., Neubauer Company, LLC – commercial Brick & Brick Vinyl – single story, B-2 zoning. To the northeast is a parcel zoned B-2, 6265 Washington Blvd.

OM Hari Bol Limited Partnership – Exec Motel commercial; to the southeast are R-12 zoned parcels used for residential; and to the southwest is a B-2 zoned parcel, 6285 Washington Blvd., FSO. LLC – tire service – retail commercial, Brick – single story.

C. Road and Traffic Conditions. Route 1 in the vicinity of the Property has two (2) northbound lanes and two (2) southbound lanes separated by a shared center turn lane. The posted speed limit along Route 1 at the private entrance to the Property is 40 MPH southbound and 45 MPH northbound. The northbound lanes of Route 1 at the Property have an appreciable downward grade of approximately 4% along the approach to the site entrance. Because of the high rate of traffic speed (approximately 45 MPH), the downward sloping topography and lane configuration of the roadway, northbound vehicles intending to make a right-hand turn into the Taco Bell Restaurant must maneuver into the far-right turn lane well in advance of turning right into the site.

D. Topographic and Visibility Conditions. The Property has limited visibility to the passing motorist. There are many existing street trees and business signs located along the Route 1 right-of-way and on the adjoining and adjacent properties to the north and south of the Property. These existing street trees and business signs obscure the visibility of the Petitioner's existing business sign to passing motorists. Route 1 carries a significant amount of non-local traffic whose drivers are not as familiar with the location of local restaurants and businesses. A crest of a hill lies at the intersection of US Route I and Montgomery Road, approximately 340.93 feet to the south. The posted speed limit along Route 1 in the vicinity of the private entrance to the site is 45 MPH. The northbound lanes of Route 1 have an appreciable downward grade of approximately 4% along the approach to the site. Because of the high rate of traffic speed, the topography and lane configuration of the roadway, northbound vehicles intending to make a right-hand turn into the site must enter the far-right hand turn lane well before turning right into the private entrance into the

site. The Petitioner's current business sign is obscured from the view of northbound and southbound Route 1 traffic until a point that is just a short distance from the site entrance. Approaching the site from the south, the visibility of the current freestanding sign is almost completely obscured by existing trees and vegetation planted along the Route 1 right-of-way.

E. Current Sign.

The Petitioner's current business sign is set back approximately 69 feet from the traveled portion of the northbound lanes of Route 1. Because of its size and its location, it is obscured from the view of both the northbound and southbound travel lanes of Route 1 traffic until a point that is very near the Property's private entrance. The visibility of the current sign to northbound and southbound traffic is obscured by existing off-site freestanding business signs, utility poles and vegetation planted along the Route 1 right-of-way. The unobscured visibility of the existing Taco Bell sign when viewed from the travel lanes of Route 1 is less than 150 feet in either direction. This distance is far too short for motor vehicles to safely maneuver their vehicles into the proper lane and to then reduce their speed sufficiently to negotiate a safe turn into the site entrance.

F. Proposal and Variances Requested.

- 1. Proposed Monument Building Sign.** The proposed Monument Building Sign includes two (2) component sections. The upper section of the sign contains the "Swinging Bell" logo below which appear the words "TACO BELL BREAKFAST" as stacked fixed text. The dimensions of the Monument Building Sign are (H) 9 ft. 5-1/8 in. x (W) 5 ft. 7-3/4 in. **The area of the proposed sign is 53.22 sq. ft.** The painted metal cabinet base of the sign is (H) 1 ft. 6-7/8 in. x (w) 5 ft. 7-3/4 in. **The total height of the sign including its supporting ground base is 11 ft. 0 in.**
- 2. Proposed Wall Signs.** In addition to the 53.22 sq. ft. Monument Building Sign

described above, the Petitioner proposes a modest wall sign package which consists of three (3) component wall signs that are proposed to be applied in varying combinations on two exterior walls of the building (front and right elevations):

Logo Wall Sign (“Swinging Bell”):

(H) 3 ft. 6 in. x (W) 3 ft. 10.375 in.

Area = 13.53 sq. ft.

Linear Wall Sign (“TACO BELL”):

(H) 1 ft. 2 in. x (W) 8 ft. 6.375 in.

Area = 9.95 sq. ft.

Stacked Wall Sign (“TACO BELL”):

(H) 2 ft. 6.313 in. x (W) 4 ft. 3 in.

Area = 10.74 sq. ft.

Location of Component Wall Signs on Building:

Front (1) Logo Wall Sign + (1) Stacked Wall Sign = 24.27 sq. n.

Right (1) Logo Wall Sign + (1) Linear Wall Sign = 23.48 sq. ft.

The total area for all wall mounted building signs is **47.75 sq. ft.** The total sign area of all proposed signs on the site (including the proposed 53.22 sq. ft. Monument Building Sign) is **100.97 sq. ft.**

3. Variances Requested.

- a. Increase the **maximum allowable area of all signs** permitted on the Property under Section **3.501(c)(1)(a)** by 41.97 sq. ft. to **100.97 sq. ft. (area variance of 41.97 sq. ft.)**:
- b. Allow the new ground-mounted Monument Building Sign, located 20 feet from the existing right-of-way, to be **11 feet tall (height variance of 1 ft. - one (1) foot taller than the maximum allowable height of 10 feet based upon the 20-foot set back from the Route 1 right-of-way) under Section 3.501(c)(1)(a)**;

- c. **Under Section 3.501(c)(2)(c), allow the new ground-mounted Monument Building Sign to have a sign area of 53.22 sq. ft. (area variance 33.22 sq. ft) and a height of 11 ft. (height variance of 1 ft.).**

G. Testimony.

1. **Brian W. Cleary, PE, The Pettit Group, LLC.** Mr. Cleary testified regarding the need for the variances and the reasons the variances should be granted, adopting the statements in the Petition.

CONCLUSIONS OF LAW

The standards for sign variances are contained in Title 3, Signs, Section 3.513, Variances, of the Howard County Code. That section states:

(b) The Board of Appeals may grant variances outside of Downtown Columbia from the provision of this subtitle where the following determinations are made:

(1) That there are unique physical conditions or exceptional topographical conditions peculiar to the property on which the proposed sign is to be located, including the location of existing buildings and other structures, irregularity, narrowness or shallowness of the lot, irregularity of the road right-of-way, location on a highway that has a dependency on nonlocal use, which conditions lead to practical difficulty and unnecessary hardship in complying strictly with the provisions of this subtitle; **or**

(2) That there are obstructions, such as excessive grade, building interference, structures or landscaping on abutting property or properties which seriously interfere with the visibility of a proposed sign, resulting in practical difficulties and unnecessary hardship in complying strictly with the provisions of this subtitle; **or**

(3) That there are historical, architectural or aesthetic characteristics which shall be considered; **and**

(4) That the variance, if granted, will not adversely affect the appropriate use or development of adjacent properties, nor result in a dangerous traffic condition; **and**

(5) That the requested variance is the minimum necessary to afford relief, and can be granted without substantial impairment of the

intent, purpose and integrity of this subtitle; **and**

(6) That such practical difficulties or hardships have not been created by the Applicant; provided, however, that where required findings pursuant to section 3.513 are made, the purchase or lease of the property on which a proposed sign is to be located subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.

Under Section 3.513(b), at least **one of the first three** criteria and criteria 4, 5 and 6 must be met. Based upon the foregoing Findings of Fact, and for the reasons stated below, I find that the requested variances comply with Section 3.513 Title 3, Signs, of the Howard County Code and therefore may be granted.

1. Section 3.513 (b)(1). The first criterion for a variance is that there unique physical conditions or exceptional topographical conditions peculiar to the property on which the proposed sign is to be located, including the location of existing buildings and other structures, irregularity, narrowness or shallowness of the lot, irregularity of the road right-of-way, location on a highway that has a dependency on nonlocal use, which conditions lead to practical difficulty and unnecessary hardship in complying strictly with the provisions of this subtitle. Section 3.513 (b)(1).

This test involves a two-step process. First, there must be a finding that the property is unusual or different from the nature of the surrounding properties. Secondly, this unique condition must disproportionately impact the property such that a practical difficulty arises in complying with the code. See *Cromwell v. Ward*, 102 Md. App. 691, 651 A.2d 424 (1995). A “practical difficulty” is shown when the strict letter of the zoning regulation would “unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.” *Anderson v. Board of Appeals, Town of Chesapeake Beach*, 22 Md. App. 28, 322 A.2d 220 (1974).

The Property is located on the east side of Route 1. The elevation of the Property varies between 212 feet +/- at the northwest corner to 199 feet +/- at the northeast corner. The Property also slopes toward the northeast to an elevation of 202 feet +/- . Because of this sloping topography and to provide room for internal circulation and parking, a required storm water management facility was installed in the central region of the site and toward the rear of the parcel. As a result of these topographic conditions and the need to provide adequate storm water management, parking and internal circulation, the narrow portion of the building is required to face Route 1 resulting in building frontage of only 29.5 ft.

Route 1 in the vicinity of the Property has two (2) northbound lanes and two (2) southbound lanes separated by a shared center turn lane. The posted speed limit along Route 1 at the private entrance to the Property is 40 MPH southbound and 45 MPH northbound. The northbound lanes of Route 1 at the Property have an appreciable downward grade of approximately 4% along the approach to the site entrance. Because of the high rate of traffic speed (approximately 45 MPH), the downward sloping topography and lane configuration of the roadway, northbound vehicles intending to make a right-hand turn into the Taco Bell Restaurant must maneuver into the far-right turn lane well in advance of turning right into the site.

The Property has limited visibility to the passing motorist. There are many existing street trees and business signs located along the Route 1 right-of-way and on the adjoining and adjacent properties to the north and south of the Property. These existing street trees and business signs obscure the visibility of the Petitioner's existing business sign to passing motorists. Route 1 carries a significant amount of non-local traffic whose drivers are not as familiar with the location of local restaurants and businesses. A crest of a hill lies at the

intersection of US Route 1 and Montgomery Road, approximately 340.93 feet to the south. The posted speed limit along Route 1 in the vicinity of the private entrance to the site is 45 MPH. The northbound lanes of Route 1 have an appreciable downward grade of approximately 4% along the approach to the site. Because of the high rate of traffic speed, the topography and lane configuration of the roadway, northbound vehicles intending to make a right-hand turn into the site must enter the far-right hand turn lane well before turning right into the private entrance into the site. The Petitioner's current business sign is obscured from the view of northbound and southbound Route 1 traffic until a point that is just a short distance from the site entrance. Approaching the site from the south, the visibility of the current freestanding sign is almost completely obscured by existing trees and vegetation planted along the Route 1 right-of-way.

*Thus, I find that there **are** unique physical conditions or exceptional topographical conditions peculiar to the Property, including the location of existing structures, irregularity, narrowness or shallowness of the lot and irregularity of the road right-of-way, which conditions lead to practical difficulty and unnecessary hardship in complying strictly with the provisions of this subtitle.*

This criterion is met.

2. Section 3.513 (b)(2). The second criterion is that there are obstructions, such as excessive grade, electrical sub-station structure, deciduous trees, utility poles and lines on abutting property or properties which seriously interfere with the visibility of a proposed sign, resulting in practical difficulties and unnecessary hardship in complying strictly with the provisions of this subtitle.

The Property has limited visibility to the passing motorist. There are many existing street trees and business signs located along the Route 1 right-of-way and on the adjoining and adjacent properties to the north and south of the Property. These existing street trees and business signs obscure the visibility of the Petitioner's existing business sign to passing motorists. Route 1 carries a significant amount of non-local traffic whose drivers are not as familiar with the location of local restaurants and businesses. A crest of a hill lies at the intersection of US Route 1 and Montgomery Road, approximately 340.93 feet to the south. The posted speed limit along Route 1 in the vicinity of the private entrance to the site is 45 MPH. The northbound lanes of Route 1 have an appreciable downward grade of approximately 4% along the approach to the site. Because of the high rate of traffic speed, the topography and lane configuration of the roadway, northbound vehicles intending to make a right-hand turn into the site must enter the far-right hand turn lane well before turning right into the private entrance into the site. The Petitioner's current business sign is obscured from the view of northbound and southbound Route 1 traffic until a point that is just a short distance from the site entrance. Approaching the site from the south, the visibility of the current freestanding sign is almost completely obscured by existing trees and vegetation planted along the Route 1 right-of-way.

*Thus, I find that that there **are** obstructions, such as excessive grade, electrical substation structure, deciduous trees, utility poles and lines on abutting property or properties which seriously interfere with the visibility of the proposed sign, resulting in practical difficulties and unnecessary hardship in complying strictly with the provisions of this subtitle.*

This criterion is met.

3. Section 3.513 (b)(3). The third criterion is that there are historical, architectural or aesthetic characteristics which shall be considered.

Along this same section of Route 1, many businesses have large freestanding signs or monument signs. The proposed Monument Building Sign and the proposed building wall mounted signs are compatible and in keeping with other signs in the vicinity. As such the proposed signs will not appear to be out of place in their environment. Additionally, the proposed monument sign meets the guideline established in the Route 1 Design Manual. *See, the attached memo from Nicholas Haines of Zoning dated March 31, 2022, marked exhibit Z to the Amended DILP Memorandum.* Significantly, there will be no electronic movable text on the signs.

This criterion is met.

4. Section 3.513 (b)(4). Fourth, the variance, if granted, will not adversely affect the appropriate use or development of adjacent properties, nor result in a dangerous traffic condition.

The proposed Monument Building Sign at the proposed location will not have any adverse effect on adjacent properties, nor will it affect available sight distances. This is evident by the fact that the adjacent properties to the north and south are both developed and have their respective points of ingress and egress aligned with the existing right-of-way for Route 1. The proposed Monument Building Sign will be setback to the future right-of-way line for Route 1. Note that the future right-of-way line is setback 20 feet +/- from the existing right-of-way line. Because of this setback, the proposed Monument Building Sign is not within the sight triangles of any adjacent properties and therefore it will not have any adverse effect on adjacent properties, nor will it impact available sight distances.

Thus, I find that the variance, if granted, will **not adversely affect** the appropriate use or development of adjacent properties, nor result in a dangerous traffic condition.

This criterion is met.

5. Section 3.513 (b)(5). Fifth, the requested variance is the minimum necessary to afford relief and can be granted without substantial impairment of the intent, purpose and integrity of this subtitle.

To address the above-described visibility issues, this Petition seeks approval of a 53.22 sq. ft. Monument Building Sign setback 20 feet from the existing Route I right-of-way. At this location, the Monument Building Sign will not be obscured by existing street trees and freestanding business signs on adjoining and adjacent properties. The proposed Monument Building Sign at the proposed location will enhance the safety and convenience of the traveling motorists on US Route I. The specific need for the request is to allow the Petitioner's proposed Monument Building Sign to have reasonable visibility when viewed from the travel lanes of Route 1 at distances greater than 150 feet. To achieve suitable visibility, it is necessary to locate the proposed Monument Building Sign 20 feet from the existing Route 1 right-of-way and adjacent to the future public road right of way and to increase the area of this sign to 53.22 sq. ft. (23.22 sq. R. larger than what is otherwise prescribed by the regulations). A strict application of the regulations would require the area of the proposed Monument Building Sign to be limited to 11.25 sq. ft. which is smaller than the wall signs. Limiting the size of the Monument Building Sign in strict compliance with the regulations would reduce the visibility of the sign to traveling motorists on Route 1 and would not further the goal of enhancing the proposed Monument Building Sign's visibility when viewed from the travel lanes of the roadway at distances greater than 150 feet.

The purpose of increasing the sign area and therefore the visibility of the monument building sign is to provide motorists with greater notice and a better opportunity to see the sign and respond so that they will be better able to safely maneuver their vehicle into the appropriate travel lane of Route 1 and to further reduce their speed prior to making an appropriate and safe turn into the site.

Thus, I find that the requested variance is the minimum necessary to afford relief.

This criterion is met.

6. Section 3.513 (b)(6). Sixth, such practical difficulties or hardships have not been created by the applicant; provided, however, that where required findings pursuant to section 3.513 are made, the purchase or lease of the property on which a proposed sign is to be located subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.

The practical difficulties or hardships were not caused by the Petitioner. Rather, the practical difficulties are a result of the unique topographic conditions of the Site and the adjoining roadway. The practical difficulties are further exacerbated by the presence and location of existing vegetation and trees along the Route 1 right-of-way.

This criterion is met.

ORDER

Based upon the foregoing, it is this **8th day of September 2022**, by the Howard County Board of Appeals Hearing Examiner, ORDERED:

That the request of BLT Cantina, LLC, Petitioner, filed under Section 3.513 Title 3, Signs, of the Howard County Code, for variances to:

A. Increase the maximum allowable area of all signs permitted on the Property under Section

3.501(c)(1)(a) by 41.97 sq. ft. to 100.97 sq. ft. (area variance of 41.97 sq. ft.):

- B. Allow the new ground-mounted Monument Building Sign, located 20 feet from the existing right-of-way, to be 11 feet tall (height variance of 1 ft. - one (1) foot taller than the maximum allowable height of 10 feet based upon the 20-foot set back from the Route 1 right-of-way) under Section 3.501(c)(1)(a); and
- C. Under Section 3.501(c)(2)(c), allow the new ground-mounted Monument Building Sign to have a sign area of 53.22 sq. ft. (area variance 33.22 sq. ft) and a height of 11 ft. (height variance of 1 ft.);

shall be and hereby are **GRANTED**.

Provided, however, that the variances will apply only to the signs as described in the Petition and Plan filed with the Petition and placed in the locations depicted in the Petition and Plan filed with the Petition.

**HOWARD COUNTY BOARD OF APPEALS
HEARING EXAMINER**

Katherine L. Taylor

Date Mailed: _____

NOTICE: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.