

IN THE MATTER OF	:	BEFORE THE
BUCH LLLP, "THE VINE"	:	HOWARD COUNTY
Petitioner	:	BOARD OF APPEALS
	:	HEARING EXAMINER
	:	BA Case No. 17-004S

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DECISION AND ORDER

On December 4, 2017, 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 BUCH LLLP, "THE VINE" (Petitioner) for variances to erect five same-sized, double-sided projecting banner identification signs to be located on the Route 29-facing side of an apartment building complex garage in an R-APT (Residential: Apartments) zoning district, filed pursuant to Section 3.513.(b), Subtitle 5 of Title 3 of the Howard County Code (the "Sign Code").

Petitioner certified to compliance with the notice and advertising requirements of the Howard County Code. The Hearing Examiner viewed the subject property as required by the Hearing Examiner Rules of Procedure. Thomas Coale, Esq., represented Petitioner. No one appeared in opposition to the petition.

FINDINGS OF FACT

Based upon the petition, sign variance plan, and the technical staff report (TSR), the hearing, the Hearing Examiner finds the following facts:

1. Property Identification. The subject property is located at the south terminus of Price Manor Way, about 646 feet southwest of Tawes Street. It lies in the 5th Election District, is

referenced as Tax Map 0004, Parcel 126, and is known as 10945 Price Manor Way (formerly 10945 Johns Hopkins Way) (the Property).

2. Zoning History. In BA 15-022V (August 18, 2015), the Hearing Examiner granted Buch LLLP multiple use and structure setbacks for the apartment complex. The Department of Planning and Zoning subsequently authorized the building to be 597 feet long per ZRA -153, which as enacted by the County Council on July 31, 2015 permits building lengths greater than 300 feet if needed to address noise mitigation or site considerations, through the use of architectural treatment to reduce the perceived visual mass.

3. Property Description. The 6.83±-acre, irregularly shaped Property is under construction as The Vine, a 283-unit luxury apartment development, which includes a multistory garage connected to residential portions of the building complex. The eastern elevation of this building is 597sf.

4. Vicinal Properties.¹ The B-1 (Business: Local) zoned northerly and northeasterly property is a PEPCO easement for high-power electric lines. The unimproved, western RR-MXD-3 (Rural Residential: Mixed Use) Parcel 124 is Lot 1 of the Maple Lawn Farms Business District – Area 1 Subdivision. Lot 1 is owned by Howard County Recreation and Parks and it is encumbered with a forest conservation easement. The southwesterly, NT (New Town) zoned Parcel 288 is owned by Howard County Department of Public Works and improved with a public safety complex fronting on Scaggsville Road. Also to the southwest, the B-1 zoned Parcel 290 is

¹ This vicinal properties information was obtained from BA 15-022V.

improved with a commercial structure. To the east is Route 29.

5. The Requested Sign Variances. Petitioner is proposing to erect five double-sided (two-faced), projecting banner signs. The TSR reports that each of the five proposed projecting banner signs will have a unique design so they can serve as either informational or have an architectural purpose. The matching double-sided, digitally printed flex banners are not internally illuminated, although they will be externally lit. According to the Petitioner, the five, large decorative banner signs are intended to break up the "visual mass" of the garage.

Each projecting banner sign is 3'2" wide and 24'4" high (77.06sf), for a total double-sided signage area of 154.12sf.² Each proposed sign face would be 44'8" in height from finished grade to the top of the sign. Each banner would also be graphically distinct. Three banners are simple graphic designs. A fourth banner would contain the words "LiveTheVine.com" with a graphic logo below (the letter "V", below which are the words "the VINE"). The fifth banner would contain the words "NOW LEASING" with the same graphic logo below.

For these signs, Petitioner is requesting two variances from Sign Code § 3.501(c)(2)b(1) (as emboldened).

Sign Code § 3.501(c)(2)b(i). Sign standards by district.

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

(2) *Location.*

b. *Projecting signs.*

(i) The provisions of this paragraph shall not apply in Downtown Columbia. Projecting signs may project over public rights-of-way only where there is no building setback, and then it may project no more than 42 inches beyond the right-of-way line. It may be no closer than

² The petition appears to including "non-sign" face area in calculating square footage.

eight feet to a curbline without variance from the Board of Appeals, except that on commercial properties within the Ellicott City Historic District it may be no closer than three feet to a curbline without variance from the Board of Appeals, and must have a minimum clearance of ten feet above the finished grade of a sidewalk and 18 feet above any road, driveway or alley. No projecting sign or supporting structure shall project more than 42 inches from the wall of a building, nor be less than ten feet from the ground level at the base of the building, **nor be higher than 25 feet from the ground level to the top of the sign on a multistory building**, and above the first floor, no window or part of a window shall be situated within the area, or surface area, as defined herein, of such sign, or its supporting structure, nor shall any such sign or part of such sign or its supporting structure cover any window or part of a window. Furthermore, no projecting sign or supporting structure shall be located in such a manner as to obstruct the light and vision of a window. **Every face of a projecting sign shall be considered as a separate sign for the purposes of computing the allowable area, and the sum of the areas to all faces of a projecting sign shall not exceed 25 square feet.** No projecting sign or supporting sign or supporting structure shall extend above the top of the wall.

Because Sign Code § 3.501.(c)(2)b.(i) limits the total area of projecting signs to 25sf, the TSR explains Petitioner is requesting variances to increase the total signage area to 770.60sf, because each of the ten proposed sign faces is 77.06sf. Therefore, each two-faced banner sign would be 154.12sf in area, or 129.12sq more sign face area than the Sign Code allows (154.12sf proposed – 25sf permitted = 129.12sf). Petitioner is also requesting variances to increase the height of each banner sign to 44'8" above finished grade, making each banner 19'8" higher than allowed.

6. The Technical Staff Report (TSR) and DPZ Comments. All Department of Inspections, Licenses and Permits (DILP) TSRs evaluate a proposed sign variance petition against the criteria for granting a variance, but do not make a recommendation. The November 17, 2017 TSR in this case found unique physical and topographical conditions in the existing road elevation of Route 29, which is about 16 feet higher from finished grade to the existing road elevation of Route 29.

Attached to the TSR is a November 17, 2017 internal memorandum from Department of Planning and Zoning Comprehensive and Community Development Division Chief Kristin O'Connor. Chief O'Connor recommends approval of the variances because the proposed banners provide visual interest and dimension along Route 29 consistent with Design Advisory Panel review comments.

7. Petitioner counsel Thomas Coale clarified that while the banner sign would not be internally illuminated, they would be externally lit.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Facts, the Board of Appeals Hearing Examiner concludes as follows.

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.

The Property is located on a highway that has a dependency on nonlocal use. The TSR explains Route 29 (Columbia Pike) is a six-lane wide, heavily traveled highway. Consequently, motorists traveling north or southbound on Route 29 would not be able to view code compliant signage readily.

2. Or, 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.

There is a 16-foot grade elevation rise from the structure's finished grade to the road elevation of Route 29, a wooded 11-wide buffer between the property line and the nearest Route 29 travel lane, and a retaining wall causing practical difficulty with the visibility of a code-compliant sign.

3. Or, that there are historical, architectural, or aesthetic characteristics which shall be considered.

The architectural and aesthetic characteristics in this case is the apartment structure's long length. The petition accords with § 3.513.(b)(3).

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.

Subject to all conditions of approval, the variance complies with § 3.513.(b)(4).

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.

In the Hearing Examiner's view, the proposed signage is reasonable, based on the length and massing of the apartment structure, in compliance with § 3.513.(b)(5).

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.

The Petitioner did not create the practical difficulties or hardships pertaining to §§ 3.513.(b)(1) & (2).

ORDER

Based upon the foregoing, it is this **4th Day of January 2018**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the petition of BUCH LLLP, "THE VINE" for variances to erect five matching double-sided, projecting banner identification signs, to be located on the Route 29-facing side of an apartment building complex garage in a R-APT (Residential: Apartments) zoning district, is

APPROVED.

Provided, however, that:

1. The variances shall apply only to the proposed signage as described in the petition and plan and the technical staff report, and as detailed in the findings of facts set forth in this Decision and Order.
2. The Petitioner shall obtain all necessary permits.
3. External lighting for the signage shall comply with all applicable laws and regulations and shall be depicted on the permit/permit plan submitted to the Department of Inspections, Licenses, and Permits.

**HOWARD COUNTY BOARD OF APPEALS
HEARING EXAMINER**



Michele L. LeFaivre

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.