

IN THE MATTER OF	:	BEFORE THE
	:	HOWARD COUNTY
<b>SISTERS OF BON SECOURS USA/ BON SECOURS SPIRITUAL CENTER</b>	:	BOARD OF APPEALS
Petitioner	:	HEARING EXAMINER
	:	BA Case No. 11-005S

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**DECISION AND ORDER**

On January 9, 2012, 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 Sisters of Bon Secours USA /Bon Secours Spiritual Center for a variance of the Sign Code for a 5.41' (height) x 7.83 (width) freestanding sign 10 feet from the Marriottsville Road right-of-way (ROW) in an RC-DEO (Rural Conservation: Density Exchange Option) Zoning District, filed pursuant to Section 3.513, Title 3, of the Howard County Code (the "Sign Code").

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

David Carney, Esq., represented the Petitioner. No one appeared in opposition to the petition.

**FINDINGS OF FACT**

Based upon the Technical Staff Report (TSR), I find the following facts:

1. Property Identification. The subject property is located on the east side of Marriottsville

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Road across from Barley Fields Way at 1525 Marriottsville Road (the "Property"). The Property is located in the 3<sup>rd</sup> Election District and is referenced as Tax Map 10, Parcel 35.

1. Property Description. The 307.152-acre, irregularly shaped Property is the site of the ministry of the Sisters of Bon Secours. The Property is improved by a multi-structure retreat and conference center sited some distance from Marriottsville Road. Owing to the woods, a complying sign is not visible to a northbound motorist until about 100 feet from the access drive and until about 200 feet to a southbound motorist. Marriottsville Road along the Property frontage has a discernible curve, which also impedes motorists' view of a conforming sign.

2. Vicinal Properties. The properties to the northwest, west and south are zoned RC-DEO and are each improved by a single-family detached dwelling. The RC-DEO property to the northeast is the Patapsco State Park.

3. Speed Limit. The speed limit on Auto Drive is 35 MPH.

4. The Sign Variance Request. The Petitioner is requesting a variance under Section 3.501.C of the Sign Code to replace the existing, damaged sign with a 5.41' (height) x 7.83 (width) (42-sq. ft.) freestanding sign 10 feet from the Marriottsville Road ROW rather than the 42' setback required in relation to the aggregate sign area and the 10.82 setback required in relation to the sign's height. The double-faced, internally illuminated sign stone masonry cabinet and stone cap would contain three lines of text and an icon on the top section. The top section text would read "SISTERS OF BON SECOURS USA, "BON SECOURS SPIRITUAL CENTER," and BON SECOURS HEALTH SYSTEM."The bottom section is an electronic message display. The

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sign would be located on the north side of the Marriottsville Road entrance.

5. Accompanying the petition is a June 24, 2011 letter to the Department of Licensing, Inspections and Permits (apparently) stating that the electronic message will be changed only once every twenty-four hours.

**CONCLUSIONS OF LAW**

Section 3.513(b) of the Sign Code permits the Board of Appeals to grant variances from the provisions of the Sign Code where certain determinations are made. Based upon the foregoing Findings of Facts, I conclude 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 curvature of the Marriottsville Road along the Property frontage and the irregularity of the lot leads to practical difficulty and unnecessary hardship in complying strictly with the setback requirements of the Sign Code, in accordance with Section 3.513(b)(1).

**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.**

Existing trees and the road curvature impede motorists' view of a complying sign, causing practical difficulties and unnecessary hardship in complying with this subtitle. The

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Petitioner did not create these conditions, in accordance with Section 3.513(b)(2).

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

There are no historical, architectural, or aesthetic characteristics of the Property to be considered under section 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.**

There is no evidence that granting of the variance would adversely affect the appropriate use of development of adjacent properties, nor result in a dangerous traffic condition. The proposed sign would be constructed at the same location as the long-existing current sign and there is no evidence of any adverse effects stemming from its location.

**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.**

The relocated sign is the minimum needed for a motorist to identify the entranceway. The Hearing Examiner therefore concludes the proposed sign is the minimum necessary to afford relief and can be granted with substantial impairment of the intent, purpose and integrity of the Sign Code, in accordance with Section 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.**

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The practical difficulties are a result of unique Property conditions, vicinal obstructions, and highway conditions. The Petitioner did not create these conditions, in accordance with Section 3.513(b)(6).

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**ORDER**

Based upon the foregoing, it is this **12<sup>nd</sup> day of January 2012**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the petition of Sisters of Bon Secours USA /Bon Secours Spiritual Center to replace the existing, damaged sign with a 5.41' (height) x 7.83 (width) (42-sq. ft.) freestanding sign 10 feet from the Marriottsville Road ROW rather than the 42' setback required in relation to the aggregate sign area and the 10.82 setback required in relation to the sign's height in an RC-DEO Zoning District, is hereby **GRANTED;**

**Provided, however, that:**

1. The variance shall apply only to the uses and structures as described in the petition and plan submitted, and not to any other activities, uses, structures, or additions on the Property.
2. The electronic message display text shall not be changed more than once every twenty-four hours.

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**



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Michele L. LeFavre

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.