

IN THE MATTER OF : BEFORE THE  
  
**MANGIONE ENTERPRISES OF TURF** : HOWARD COUNTY  
**VALLEY** : BOARD OF APPEALS  
  
Petitioner : HEARING EXAMINER  
  
: BA Case No. 13-007S

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**DECISION AND ORDER**

On January 27, 2014, 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 Mangione Enterprises of Turf Valley for a Sign Code variance to erect a 3.6' (H) x 7.0' (W), 24.5-s.f. commercial freestanding sign below an existing electronic sign utilizing the same support poles and located in an PGCC (Planned Golf Course Community) Zoning District, filed pursuant to Section 3.513, Title 3, of the Howard County Code (the "Sign Code").

Petitioner certified to compliance with the notice of advertising and posting requirements of the Howard County Code. The Hearing Examiner viewed the subject property as required by the Hearing Examiner Rules of Procedure.

Sang Oh, Esquire, represented the Petitioner. Louis Mangione testified on behalf of the Petitioner. Ron Luzon, Charles Hill, and Phil Philips testified in opposition to the petition.

Petitioner introduced into evidence the exhibits as follows.

1. photograph of existing sign
2. 1984 aerial image of sign location site
3. 2011 aerial image of sign location site

**FINDINGS OF FACT**

Based upon the preponderance of evidence presented at the hearing, the Hearing Examiner finds the following facts:

1. Property Identification. The subject property is referenced as Tax Map 16, Block 11, Grid 16-17. The sign address is 2700 Turf Valley Road.
2. Property Description. The Property is the site of the 800-acre Turf Valley planned golf course community, which comprises multiple developed and planned residential areas, two golf courses, a pro shop, clubhouse, hotel, conference center, offices, a town square with a grocery store, restaurants and various services. The existing electronic, freestanding commercial sign is located in the northwesterly corner of the Turf Valley Road intersection with US 40 and set back 10 feet from Turf Valley Road. This sign was approved through BOA Case No. 92-04S and is 28.4' (H) x 11.4' (W) (28.4' high from grade level). The electronic portion indicates the "illusion of writing or printing" and changes once every 24 hours, in accordance with Department of Inspections, Licenses and Permits (DILP) policy. There is a steep grade drop-off at the guardrail and roadway by the golf course where the existing sign is located.
3. Adjacent Properties. To the north and west is a golf course. The property to the south, across US 40, is unimproved. To the east are the Open Spaces of Turf Valley Overlook Community.
4. Motorists' Views. Motorists traveling west on US 40 are unable to view a complying sign owing to the guardrail and grade drop off, as evidenced by the fourth amended comprehensive sketch plan submitted with the petition.

5. The Sign Variance Request. Petitioner is requesting a variance to erect a 3.6' (H) x 7.0' (W), 24.5-s.f. commercial, freestanding sign below an existing electronic sign utilizing the same support poles. The sign would be located 10 feet from the truncation of the US 40 and Turf Valley Road rights of way instead of the 24.6 feet required by the sign's square footage. The sign would identify two uses on two small panels. The upper panel would feature the words "Spa" and "Turf Valley" in smaller letters below. The lower panel would feature the words "Alexandra's" and "american fusion" in smaller letters below.

6. The DILP technical staff report (TSR) states the state could not be located elsewhere due to the narrow right of way, steep grade drop-off at the guardrail and roadway.

#### 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, the 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 proposed sign would be located on a highway that has a dependency on nonlocal use, and a narrow right of way, in accordance with Section 3.513(b)(1). These conditions lead to practical difficulties and unnecessary hardships in complying strictly with the provisions of this subtitle. The petition complies 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.**

There is a steep grade drop off at the guardrail and roadway, 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 to consider. The petition complies with 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.**

The proposed signage will be added to a long-existing freestanding sign, and there is no evidence of record that its expansion will adversely affect the appropriate use of adjacent properties. The petition complies with Section 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.**

The 24.5-s.f. sign is intended to display only the minimum information necessary to identify the two uses, and therefore is the minimum necessary, in compliance 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.**

The Petitioner has not created the practical difficulties, in compliance with Section 3.513(b)(6).

ORDER

Based upon the foregoing, it is this **20<sup>th</sup> day of February 2014**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the petition of Mangione Enterprises of Turf Valley for a Sign Code variance to erect a 3.6' (H) x7.0' (W), 24.5-s.f. commercial freestanding sign below an existing electronic sign utilizing the same support poles and located in an PGCC (Planned Golf Course Community) Zoning District, is **APPROVED**.

**Provided, however, that:**

1. Petitioner shall obtain all necessary permits.

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**



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Michele L. LeFaivre

Date Mailed \_\_\_\_\_

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 calendar 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.