

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of MPI-LV-SOMAR, LLC,
Unit 1, (Sonic Sign) Lexington Village Commercial
Condominium, Lexington Village Shopping
Center, 46350 Lexington Village Way,
Lexington Park, MD

Case No. VAAP #14-0664

DECISION AND ORDER**Introduction**

MPI-LV-SOMAR, LLC (hereinafter "Applicant(s)"), filed an application for a variance from the regulations of the St. Mary's County Comprehensive Zoning Ordinance (hereinafter the "Ordinance") regarding property located at Unit 1, Lexington Village Commercial Condominium, Lexington Village Shopping Center, 46350 Lexington Village Way, Lexington Park, Maryland (hereinafter the "Property"). The application seeks to exceed the allowed square footage of a Master Sign Plan.

After due notice, a public hearing was conducted at 6:30 p.m. on July 10, 2014, at the St. Mary's County Governmental Center at 41770 Baldrige Street in Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn, documentary evidence received, and the proceedings recorded electronically.

Legal Standard

The Board shall not vary the regulations of the Ordinance unless it finds, based on the evidence, that:

1. Because of particular physical surroundings such as exceptional narrowness, shallowness size, shape or topographical conditions of the property involved, strict enforcement of the Ordinance will result in practical difficulty.
2. The conditions creating the difficulty are not applicable, generally, to other properties within the same zoning classification.
3. The purpose of the variance is not based exclusively upon reasons of convenience, profit or caprice; provided, any development necessarily increases property value, and that alone shall not constitute a finding of an exclusive reason.
4. The alleged difficulty has not been created by the property owner or the owner's predecessors in title.
5. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood and the character of the district will not be changed by the variance.
6. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
7. The variance complies, as nearly as possible, with the spirit, intent, and purpose of the Comprehensive Plan.

Findings of Fact

The Property is the site of the Sonic Drive-In Restaurant (Sonic) and contains an additional 5,000 square feet of retail space. The Property was intended to be the site of a CVS drug store prior to its acquisition by the Applicant.

The Property is in the Lexington Village Shopping Center and is legally described by the Maryland Department of Assessments and Taxation as Unit 1, Lexington Village A Condominium. Unit 1 was known as Pad A when the Shopping Center was first approved on January 5, 2009 and subsequently revised on March 3, 2011. In 2013 the Shopping Center was subdivided and on December 11, 2013 the Lexington Village Condominium Plat was recorded at Book 72, Page 3.

On December 21, 2007, LV Retail Land LLC, the property owner at the time the Lexington Village Shopping Center went through the review and approval process, was issued a sign permit (Permit No. 07-3371) to cover all the signs that had been approved under a Master Sign Plan, for a total of 1,524 square feet of sign area. The Master Sign Plan comprised a primary and two secondary freestanding signs and square footage limits for tenant signs on pad sites A through I. Pad site A was initially allotted 140 square feet of sign area when Permit No. 07-3371 was first issued. The Master Sign Plan was subsequently revised three different times. The most recent revision was approved on June 18, 2013. This modification reduced the sign area on Pad Site A to 90 square feet.

The Applicant requests an additional 150 square feet of sign area based on a front setback of more than 50 feet.

Conclusions of Law

Pursuant to Section 65.5 of the Ordinance, "Master sign plans may be submitted to the Planning Director for any residential or non-residential development requiring site plan or subdivision approval. A master sign plan may include more than one freestanding sign per parcel or other deviations from the standards of this chapter provided that the total sign area shall not exceed the area otherwise permitted by more than 25 percent as shown in Schedule 65.3.1."

Lots in the mixed use districts may have one 64 square-foot, freestanding sign per lot. Wall sign square footage is based on a building's front setback. Buildings with a front setback of less than 50 feet are allowed one square foot of sign area per lineal foot of building width, up to a maximum of 100 square feet per building. Buildings with a front setback of 50 feet or more are allowed one and one-half (1.5) square feet of sign area per lineal foot of building width, up to a maximum of 150 square feet per building.

There is no evidence of physical conditions of the Property that would result in practical difficulty if compliance with the Ordinance and the existing Master Sign Plan is required.

The purpose of the variance is based exclusively upon reasons of convenience and profit.

The alleged difficulty was created by the property owner's predecessors in title who reduced the signage allocated to the Property.