

ATTACHMENT 1

Zoning Text Amendment No: 05-03
Concerning: Signs - Variances
Draft No. & Date: 2 1-27-05
Introduced: February 1, 2005
Public Hearing: March 8, 2005; 7:30 pm
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Praisner

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- increasing the Sign Review Board from 3 to 5 members.
- transferring authority to approve sign variances from the Sign Review Board to the Department of Permitting Services.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the County Code:

DIVISION 59-F-1 "Purpose, Intent, and Applicability"
Section 59-F-1.3 "General"

DIVISION 59-F-4 "Permanent Sign - Design Elements and Limitations"

DIVISION 59-F-10 "AUTHORITY"
Section 59-F-10.1 "The Director of the Department of Permitting Services"
Section 59-F-10.2 "Sign Review Board"

DIVISION 59-F-12 "Sign Variances"

EXPLANATION: ***Boldface** indicates a heading or a defined term.*

Underlining indicates text that is added to existing laws by the original text amendment.

[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.

** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. DIVISION 59-F is amended as follows:**

2 **DIVISION 59-F-1. Purpose, Intent, and Applicability.**

3 * * *

4 **59-F-1.3. General.**

5 * * *

6 (b) To provide flexibility in the approval of sign permits, the [Sign
7 Review Board] Department of Permitting Services may approve a
8 variance from any provision of this Article except Division 59-F-7,
9 "Prohibited Signs."

10 * * *

11 **DIVISION 59-F-4. Permanent Sign - Design Elements and Limitations.**

12 Permanent signs are those which are intended to remain posted indefinitely.
13 A permanent sign must obtain a permit [pursuant to] under Section 59-F-9.1 and
14 may require a building permit or electrical permit due to its physical
15 characteristics. Except as provided below, any sign not listed in this Article or
16 which does not conform to the requirements in this Article must obtain a variance
17 from the [Sign Review Board] Department of Permitting Services. [Permanent
18 signs] Any permanent sign located [within] in an approved urban renewal area as
19 part of an optional method development project [are] need not [required to]
20 conform to the Design Elements and Limitations provisions of this Article[,
21 provided the signs are] if the sign is approved by the Sign Review Board as part of
22 a sign concept plan [pursuant to] under Section 59-F-10.2(b)(1)(H). However, the
23 Sign Review Board must hold a public hearing on any sign concept plan [within]
24 in the Urban Renewal Area, after 30-day notice, and verify that the applicant [for
25 the sign concept plan approval] has complied with the variance notification
26 requirements of [59-F-10.2(b)(1)(G)1] Section 59-F-10.2(b)(1)(F)1.

27 * * *

28 **DIVISION 59-F-10. AUTHORITY.**

29 **59-F-10.1. The Director of the Department of Permitting Services.**

30 (a) Enforcement.

31 * * *

32 (4) Enforcement of Variances. The Director must enforce the
33 conditions and terms of a variance issued by the [Sign Review
34 Board] Department of Permitting Services.

35 * * *

36 (b) Permits and Licenses.

37 (1) Permits. The Director may issue a permit required by this
38 Article [upon compliance by] when the applicant complies with
39 [the requirements of] Section 59-F-9.1. A permit may be
40 issued:

41 (A) for each sign on an individual basis; or

42 (B) for each sign on a collective basis [following the
43 acceptance and approval of] after a sign concept plan [as
44 required in] is approved under subsection 59-F-9.1(c)(7).
45 Except for optional method development [within] in an
46 [approved] urban renewal area, when a sign concept plan
47 exceeds the maximum allowable sign area for the site,
48 the applicant must seek a variance from the [Sign Review
49 Board] Department of Permitting Services in
50 conformance with subsection 59-F-10.2(c)(2).

51 * * *

52 (d) Relief from an Action of the Director.

53 (1) Variance from the [Sign Review Board] Department of
54 Permitting Services. An applicant may file a request for a

55 variance with the [Sign Review Board] Department of
56 Permitting Services if the Director denies a sign permit because
57 the proposed sign fails to comply with [the standards of] this
58 Article.

59 * * *

60 **59-F-10.2. Sign Review Board.**

61 (a) Composition. The Sign Review Board [is established as an agency
62 which] consists of [3] 5 members:

63 (1) appointed by the County Executive[, subject to the confirmation
64 of] and confirmed by the Council, and [bound by the
65 requirements of] subject to Section 2-148 [of the Code];

66 (2) who are residents of the County;

67 (3) one of [the members] whom must [be the operator of] operate a
68 business in the County;

69 (4) one of [the members] whom must be [a State of Maryland
70 licensed] an architect licensed in Maryland. [Prior to the
71 appointment of this member the County] The Executive must
72 request from the Potomac Valley Chapter of Maryland,
73 American Institute of Architects, recommendations of architects
74 who are [well] qualified to serve on the [Sign Review] Board,
75 [however] but the [County] Executive is not limited to [this] the
76 Chapter's recommendation;

77 (5) one of [the three members] whom must be [appointed
78 chairperson] designated as chair by the [County] Executive,
79 subject to confirmation by the Council; and

80 (6) each [member] of whom serves a 3-year term, except that an
81 appointment to fill a vacancy occurring before [the expiration
82 of] a term expires is for the remainder of the unexpired term.

83 (b) Powers and Duties.

84 * * *

85 [(F) not grant a variance for signs covered under division 59-
86 F-7. "Prohibited Signs," or for requirements in Section
87 59-F-9.2. "License."]

88 [(G)] (F) [Notification] Notice.

- 89 1. Verify that an applicant for a sign variance has:
 - 90 a. Submitted to the Director with the application for a
 - 91 variance a list of all those to be notified of the
 - 92 hearing. The list must include:
 - 93 i. Owners and residents of all properties
 - 94 contiguous or opposite to the proposed
 - 95 location of the sign. In the case of
 - 96 individual condominium owners within
 - 97 multi-family buildings, the condominium's
 - 98 council of unit owners may be notified
 - 99 instead;
 - 100 ii. Officials of the local citizens association(s);
 - 101 iii. Any municipality or special taxing district
 - 102 [within whose territory] where the proposed
 - 103 sign [is] would be located;
 - 104 iv. The technical staff of the [Maryland
 - 105 National Capital Park and Planning
 - 106 Commission,] Planning Board if the sign [is

107 to] would be located on property under a
 108 Section 59-D-3 site plan agreement; and

109 v. Any citizen association or person/agency
 110 that has expressed an interest to the
 111 government or the applicant.

112 b. Notified all persons and organizations on the
 113 list at least 15 days before the hearing.

114 2. Notify the parties of record of the [Sign Review Board]
 115 decision.

116 * * *

117 (2) Powers. The Sign Review Board may:

118 (A) [provide a recommendation to] advise the Director [as to]
 119 whether an application for a permit [meets the
 120 requirements of] complies with this Article or needs a
 121 variance;

122 (B) order the appearance of a person or evidence at a hearing
 123 before them; and

124 [(C) hear and decide an application for a variance from the
 125 sign regulations of this Article after finding that:]

126 [1. the strict application of the sign regulation results
 127 in a particular or unusual practical difficulty,
 128 exceptional or undue hardship, or significant
 129 economic burden upon an applicant;]

130 [2. the variance is the minimum reasonably necessary
 131 to overcome any exceptional conditions; and]

132 [3. the variance can be granted without substantial
 133 impairment of the intent, purpose, and integrity of

- 134 the requirements of this Article. A variance
135 decision must be based on consideration of:]
- 136 [(i) one or more of the following elements: size,
137 shape, color, design elements, location, or
138 cost of the sign;]
- 139 [(ii) the compatibility of the proposed sign with
140 the surrounding property, the proximity of
141 other signs, and the characteristics of the
142 area; and]
- 143 [(iii) the recommendations of the Maryland-
144 National Capital Park and Planning
145 Commission or technical staff, if requested
146 by the Sign Review Board or offered by the
147 Commission.]
- 148 [(D) decide an application for a variance which involves a
149 sign on property subject to a special exception issued by
150 the Board of Appeals when:]
- 151 [1. the findings of subparagraph (C) above have been
152 satisfied; and]
- 153 [2. the Board of Appeals has approved the sign.
154 Nothing in this subparagraph precludes the Sign
155 Review Board from imposing more restrictive
156 conditions than the Board of Appeals, but it must
157 not approve a variance for a sign which is less
158 restrictive than the conditions set by the Board of
159 Appeals.]

- 160 (E) (C) approve a right-of-way sign as stipulated in subsection
 161 59-F-7.1.(f)(2) [based upon] after receiving a
 162 recommendation from the appropriate transportation
 163 jurisdiction[;].
- 164 [(F) impose conditions and terms on a sign variance; and]
- 165 [(G) conduct a show cause hearing for revocation of a
 166 previously granted sign variance when it determines:]
- 167 [1. the applicant supplied inaccurate information to
 168 the Sign Review Board, or]
- 169 [2. the terms of a variance set by the Sign Review
 170 Board have not been met or have been violated.]

171 * * *

172 **DIVISION 59-F-12 Sign Variances.**

173 (a) The Director of Permitting Services, or the Director's designee, may:

174 (1) after a hearing, approve an application for a variance from the
 175 sign regulations of this Article if the Director find that:

176 (A) the strict application of the sign regulation results in a
 177 particular or unusual practical difficulty, exceptional or
 178 undue hardship, or significant economic burden on an
 179 applicant;

180 (B) the variance is the minimum reasonably necessary to
 181 overcome any exceptional conditions; and

182 (C) the variance can be granted without substantial
 183 impairment of the purpose of this Article. A variance
 184 decision must consider:

185 (i) the sign's size, shape, color, design elements,
 186 location, or cost;

- 187 (ii) compatibility of the proposed sign with the
188 surrounding property, the proximity of other signs,
189 and the characteristics of the area; and
- 190 (iii) any recommendation of the Planning Board or its
191 technical staff including findings made by the
192 Planning Board pursuant to Section 59-D-3;
- 193 (2) approve a variance for a sign on property subject to a special
194 exception issued by the Board of Appeals if:
- 195 (A) the elements of subparagraph (a)(1)(A) have been
196 satisfied; and
- 197 (B) the Board of Appeals has approved the sign. Nothing in
198 this paragraph precludes the Director from imposing
199 more restrictive conditions than the Board of Appeals,
200 but the Director must not approve a variance which is
201 less restrictive than any condition set by the Board of
202 Appeals;
- 203 (3) after hearing, revoke a previously granted sign variance if the
204 Director finds that:
- 205 (A) the applicant supplied inaccurate information, or
206 (B) the terms of a variance have not been met.
- 207 (b) The Director may impose conditions and terms when approving a
208 variance.
- 209 (c) The Director must not approve a variance for any sign prohibited
210 under Division 59-F-7, or vary any requirement of Section 59-F-9.2.

211

212 This is a correct copy of Council action.

213

214 Elda M. Dodson, CMC, Acting Clerk of the Council

Date