

Tax Map/Block/Parcel
No. 74-13-615

Building Permit/Zoning
Certificate No. 93-3814

Case 3891

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPELLANT: Carrolltown Center Development Company
c/o Black Rock Associates
2004 Stringtown Road
Sparks, Maryland 21152

ATTORNEY: J. Brooks Leahy, Esquire
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APPEAL: An appeal of the zoning administrator's interpretation of sign regulations for planned business centers, including Sections 14.23 and 14.63 of Ordinance 1E; and, an appeal of the Notice of Violation dated November 24, 1993, pertaining to signs in excess of the allowed sign area of 200 square feet for a planned business center

LOCATION: Carrolltown Center at the southwest corner of Liberty Road (Md. Rt. 26) and Ridge Road intersection in Election District 5

BASIS: Article 17, Section 17.4; Ordinance 1E (The Carroll County Zoning Ordinance)

HEARING HELD: January 26, 1994; **Decided:** February 7, 1994

On January 26, 1994, the Board of Zoning Appeals heard testimony and received evidence concerning an appeal of the zoning administrator's interpretation of sign regulations for planned business centers, including Sections 14.23 and 14.63 of the zoning ordinance; and, an appeal of the Notice of Violation dated November 24, 1993, pertaining to signs in excess of the allowed sign area of 200 square feet for a planned business center, Carrolltown Center, at the southwest corner of Liberty Road (Md. Rt. 26) and Ridge Road intersection.

In accordance with the provisions of Article 17, Section 17.6.6 and 17.7 of the zoning ordinance, and the Board's longstanding policy, the Board visited the site prior to the public hearing. The purpose of the visit was for the Board to view the shopping center in order to be reasonably familiar with it to assist in appraisal of testimony and evidence, either pro or con, presented during the public hearing.

The Notice of Appeal, testimony and evidence comprising the record of this case are hereby included by reference in this decision.

The Board deferred ruling on the appeal to February 7, 1994. Following deliberations, and in compliance with the state Open Meetings Act, the Board determined that the zoning administrator's interpretation of sign regulations governing planned business centers was incorrect and affirmed the appeal.

As the November 24, 1993, Notice of Violation was based upon an incorrect interpretation of the applicable provisions regulating the allowable area of signs, the appeal is affirmed and the Notice of Violation is dismissed. If the area of an existing freestanding sign exceeds the allowable sign area, the area of the sign may be reduced to comply with the provisions, or a variance may be sought to resolve the violation.

In accordance with the provisions of Article 17, Section 17.4.10 of the zoning ordinance, the Board extended the time for issuing this decision.

In the appeal of the zoning administrator's interpretation of sign regulations for planned business centers, and as summarized from the appellant's letter of October 20, 1993, to the zoning administrator, the issues are whether provisions of Section 14.63(f)(2), either limit the number of freestanding signs serving a shopping center or provide for a sign in addition to those signs allowed by the provisions of Section 14.23, "Use on the Premises" Signs; whether separate and distinct signs mounted on a freestanding pole are individual signs or constitute a single sign; and, the appeal of the Notice of Violation stemming from the interpretation of the provisions governing allowable signs and sign area. The Notice of Appeal was amended to include the Notice of Violation to allow the Board to consider the appeals simultaneously.

The relevant provisions of the zoning ordinance are as follows:

Article 14, Special Provisions; Division II, Regulations Governing Signs; Section 14.2, Generally

In order to properly integrate all regulating provisions affecting signs, as defined in Section 20.34, and to regulate such devices in an orderly and comprehensive manner, it is hereby provided that signs are subject to regulations as set forth herein. These provisions shall apply equally to all signs located in Carroll County.

(Note: Due to amendment of the zoning ordinance, Section 20.34 should be read as Article 20.)

As defined in Article 20, planned business center and signs, in relevant part, read:

Planned Business Center

Three or more retail stores or service establishments designed as a unit and primarily served by common accessories such as signs, parking lots, arcades and walkways.

Signs

A name, identification, description, display, logo, illustration or device which is affixed, stationed, or represented directly or indirectly upon a building, structure or land and which directs attention to a product, place, activity, person, institution, or business.

- (a) Sign, on premise. A sign which directs attention to a business or profession or to a commodity, service, or entertainment sold or offered upon the premises where the sign is located.

Section 14.23, "Use on the Premises" Signs, states in relevant part:

Business signs pertaining to "use on the premises," as enumerated in Section 14.22(a), are permitted as an accessory use in all districts, provided the following provisions are adhered to:

(Note: Section 14.22(c) states that business signs and outdoor advertising signs are permitted in accordance with zoning district regulations and require zoning certificates.)

- (a) No such sign shall project over or into any street right-of-way or more than four (4) feet above the parapet wall or roof line.
- (b) Any sign which is attached to the ground shall be located in such a manner that traffic visibility is not impaired.
- (c) The total area of all signs shall not exceed four (4) times each linear foot of the building wall most nearly parallel to or confronting the adjacent street. Only one building frontage shall be used in computing the sign area allowance; except on a corner lot, in which case an additional 25% of the sign area allowed may be authorized. In no case shall the area of any one sign exceed 200 square feet on any one side. Computations of signs shall include all sides (where applicable) including the entire face of the sign and any wall work incidental to its decoration and shall include the space between letter figures and designs or the space within

letter figures and designs.

- (d) No exterior sign shall exceed thirty (30) feet in total height, if freestanding.
- (e) No business sign shall be so located to obstruct the vision of traffic using entrance ways, driveways, or any public road intersection.

Section 14.63, General Regulations, subsection (f), Signs, (Amended through 11/16/76) reads:

In addition to signs permitted and as regulated in the "B" or "I" district in which the shopping center project is located, the following signs may be permitted:

- (1) For each interior business, signing may be permitted not to exceed an area four (4) square feet for each lineal foot of store frontage and located in accordance with a signing plan approved by the Commission.
- (2) One additional sign not exceeding two hundred (200) square feet in area containing the names of the shopping center and/or the establishments located therein, may be placed in any location within the boundaries of the project, but it shall not exceed thirty (30) feet in height. Any shopping center fronting on more than one street may be permitted such a sign within the required yard area along each street.

As indicated by the zoning administrator, the longstanding practice of regulating freestanding signs serving planned business centers has been to allow only one jointly-used freestanding sign having an area of not more than 200 square feet, 100 square feet per side when the sign is double-faced, on each road that the planned business center has frontage.

The freestanding signs located at the northwest corner (Hemlock Drive W and Liberty Road), the northeast corner (Ridge Road and Liberty Road), and on Liberty Road about midway between the corner signs are allowed due to the shopping center fronting on the three streets. Section 14.63(f)(2).

The principles of statutory construction apply in the administration of the zoning ordinance and to this appeal. Upon carefully reading of the provisions of Sections 14.23 and 14.63(f), the Board finds that the provisions, as printed, are clear and unambiguous.

Careful and systematic study of the provisions confirms:

1. The provisions apply equally to all signs. Section 14.2
2. Freestanding signs are not defined in the zoning ordinance. Article 20.
3. Signs shall not obstruct the visibility of traffic. Section 14.23(b) and (d).
4. The formula used to calculate allowable sign area for a business does not restrict how the sign area may be used, except that no signs shall be larger than 200 square feet on one side of the sign. In calculating the area of a sign, each face of the sign, any incidental wall work, and the space between or within letter figures and designs shall be included in the calculations. The total area of a sign is not limited, only the area of one side of the sign is limited. Section 14.23(c). (Emphasis added.)
5. If separate and distinct signs are mounted individually on a freestanding pole, computation of the sign area may be on the basis of the individual signs. However, if the location or composition of separate signs, regardless of whether they are distinct or not, represents a single freestanding sign, the sign area would be calculated accordingly.

For a single business or two businesses within a single building, the provisions of Section 14.23 do not limit the number of freestanding signs, the number of sides of a sign, or the sign area of freestanding signs, except that the area of a sign shall not exceed 200 square feet on any one side.

Thus, if a freestanding sign would be designed with two sides, the maximum allowable sign area of the sign would be 400 square feet (200 square feet per side multiplied by two sides equals 400 square feet.) If the freestanding sign were designed with three, four or five sides, the maximum allowable area would be 600 square feet, 800 square feet, and 1,000 square feet respectively.

The number of freestanding signs are only limited by the maximum allowable sign area of four square feet for each linear foot of the building as expressed in Section 14.23(c), and by the location requirements expressed in that section. (Emphasis added.)

For planned business centers--three or more retail stores or service establishments designed as a unit....--the language of Section 14.63(f) is clear and explicit.

1. Planned business centers are entitled to the same signs allowed for single and two businesses, except that such signs are subject to the approval of the Planning and Zoning Commission as part of a signing plan for the planned business center.

2. Paragraph one of Section 14.63(f) provides signing for businesses that do not front on a street. Except for this provision, such businesses would not be allowed signs.
3. For planned business centers, paragraph two of Section 14.63(f) clearly allows one additional sign, with a total sign area of not more than two hundred square feet, and not more than thirty feet in height. If a planned business center fronts on more than one street, one additional sign having a total area of not more than two hundred square feet is allowed for each such street in which the center fronts.

Regardless of why and how long the incorrect interpretation of restricting the total area of a freestanding sign to two hundred square feet and of allowing only one freestanding sign for each street that a planned business center fronts on has been perpetuated, the practice is contrary to the provisions of Sections 14.23 and 14.63(f) of the zoning ordinance. Furthermore, the mere fact that the practice has been followed for years does not justify the improper interpretation.

If the practice of restricting the total area of a freestanding sign to two hundred square feet and allowing only one freestanding sign for each street that a planned business center fronts on expresses the objectives of the county, then the zoning ordinance should be amended accordingly. Attention may also be directed to amending the provisions of Section 14.23 to limit the number of freestanding signs allowable for businesses not located in a planned business center.

3-17-94

Date

Claude R. Rash
Claude R. Rash, Chairman