

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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(www.montgomerycountymd.gov/mc/council/board.html)

**Case No. A-6406**

**APPEAL OF JAMES N. PLAMONDON**

**OPINION OF THE BOARD**

(Hearing held May 29, 2013)  
(Effective Date of Opinion: June 24, 2013)

Case No. A-6406 is an administrative appeal filed by James N. Plamondon (the "Appellant"). The Appellant charges administrative error on the part of the Sign Review Board of the County's Department of Permitting Services ("DPS") in its denial of his request for two sign variances needed to allow wall signs on a drive-thru restaurant (Roy Rogers). The subject property is located at 15662 Old Columbia Pike, Burtonsville, Maryland (the "Property"), in the C-2 zone.

Pursuant to Section 59-A-4.4 of the Montgomery County Zoning Ordinance, codified as Chapter 59 of the Montgomery County Code (the "Zoning Ordinance"), the Board held a public hearing on the appeal on May 29, 2013. Joseph A. Lynott, III, Esquire, represented the Appellant. Associate County Attorney Terri Jones represented DPS.

Decision of the Board:      Requested variances **granted**.

**FINDINGS OF FACT**

**The Board finds by a preponderance of the evidence that:**

1. The Property is located at 15662 Old Columbia Pike, Burtonsville, Maryland 20886, also known as Parcel B, Burtonsville Shopping Center, and is zoned C-2.

2. On February 19, 2013, the Sign Review Board denied the requested sign variances and gave the following reasons:

1. Signage on east elevation is redundant (existing sign is visible from Rte 198).

2. Failure to demonstrate a significant or exceptional hardship peculiar to subject property as compared to other neighboring properties.

See Exhibit 3(a).

3. On March 15, 2013, the Appellant timely filed this appeal to the Board of Appeals. See Exhibit 1(a).

4. Mr. Roger Waterstreet, a Permitting Specialist with DPS who has served as DPS' staff liaison to the Sign Review Board ("SRB") for the past 12 years, testified for the County. Mr. Waterstreet testified that the SRB is a five member citizen Board appointed by the County Executive and confirmed by the County Council. Mr. Waterstreet testified that the Sign Review Board reviews about eight sign variance applications per month.

Mr. Waterstreet testified that in the instant matter, the documents in the record at pages 6-26 of Exhibit 4(c) were submitted to the Sign Review Board. He testified that he reviews sign variance applications for completeness and schedules them for hearings before the SRB. He testified that the hearing for the sign variances in question was held on February 19, 2013.

Mr. Waterstreet testified that the subject Property is located on a pad site in the southeast corner of the Burtonsville Town Square shopping center, towards the corner of Route 198 and Old Columbia Pike (Route 29A). See Exhibit 4(c), page 6 (shaded pad shows location). He testified that the Burtonsville Town Square shopping center is located on the northwest corner of that intersection.

Mr. Waterstreet testified that the Appellant was seeking permission to erect two wall signs with illuminated channel letters on the subject restaurant, one on the east elevation, and one on the north elevation. He testified that each sign was about 45 square feet in area. Mr. Waterstreet testified that the Zoning Ordinance allows one wall sign for each customer entrance, which he described as an entry for public access during business hours. He testified that the restaurant has two customer entrances, one on the south and one on the west elevation, and that both of those elevations currently have wall signs. He testified that other existing signage includes two directional signs, a menu preview board, and a menu board. In addition, Mr. Waterstreet testified that the shopping center has two freestanding pylon tenant signs, and that Roy Rogers is listed on one of those signs (the sign located at the Old Columbia Pike entrance).

Mr. Waterstreet testified that public comments were submitted for this sign variance hearing by two citizens and by the East County Citizens Advisory Board. See Exhibit 6, pages 3-6. He stated that the citizen comments were submitted by the co-Chair of the Fairland Coalition (Dennis Holden), who submitted written comments, and by Robert Sylwester, who attended the hearing and submitted both oral and written comments. Mr. Waterstreet testified that he is not aware of any sign violations at the Roy Rogers or in the shopping center.

Mr. Waterstreet testified that in his opinion, when the two vacant pad sites to the north of the Roy Rogers are occupied, it will impact the visibility of the Roy Rogers for vehicles traveling south on Old Columbia Pike. He later acknowledged in response to Board questioning that if a car were traveling south on Old Columbia Pike and were stopped at a traffic light at Route 198, the driver of such a car could see the Roy Rogers even if the pad sites were built. He also acknowledged on cross-examination that he did not know if construction was planned on the vacant pads. When asked if a sign that was placed on the north elevation of the building but at the end closest to the intersection would be blocked by future construction, Mr. Waterstreet testified that there might be some obstruction, depending on the design of the new building. He then testified that there would be no obstruction of a sign on the east elevation, were such a sign allowed.

Regarding the Sign Review Board hearing, Mr. Waterstreet testified that the SRB heard testimony and denied the variances. He testified that the SRB stated that the additional signs would be redundant in light of the existing signage, indicating that the wall sign on the south elevation of the restaurant is visible from Route 198, and that the applicant (here, Appellant) had not demonstrated exceptional hardship. See Exhibits 3(a) and 4(a).

On cross-examination, Mr. Waterstreet testified that the east elevation of the restaurant, which has no wall signage, faces the intersection of Route 198 and Old Columbia Pike. He testified that at the hearing, it was brought out that the wall sign on the south elevation of the restaurant was visible from Route 198 and Old Columbia Pike. Mr. Waterstreet testified that he agreed that the sign on the south elevation would be visible to a car traveling westbound on Route 198, but agreed that no sign was visible when traveling north on Old Columbia Pike. He testified that neither he nor the SRB had ever visited the site.

When asked on cross-examination if he could think of another quick service restaurant located at a major intersection in the County with signage that was only visible from one direction of travel, Mr. Waterstreet testified that he could not. He then noted that Roy Rogers did have a sign panel on the pylon sign that is located at the Old Columbia Pike entrance to the shopping center, but did not have a sign panel on the pylon sign at the Route 198 entrance. When asked if 335 feet was a fair estimate of the distance from the Old Columbia Pike pylon sign to the restaurant, Mr. Waterstreet said that may be correct, but that he was not sure. He later indicated that the Roy Rogers panel on the pylon sign is smaller than some others, and noted that who can have panels on the pylon sign, and the size of the panels is a landlord determination.

Mr. Waterstreet testified on cross-examination that Exhibit 10(a) shows the wall sign over the front door (west elevation). He testified that this side of the building faces the interior of the shopping center, away from the intersection. He testified that the Zoning Ordinance precludes the location of signs on walls that do not have entrances, and agreed with counsel that if a restaurant (with four sides) has two sides with entrances, the restaurant cannot simply choose to put the signs on the sides without entrances without getting a variance.

Mr. Waterstreet testified that the wall signs for which the variances are sought are typical signs for a Roy Rogers, and that they are the same as the sign currently installed on the south elevation.

In response to Board questioning, Mr. Waterstreet clarified that the SRB can consider the utility of the sign to the user when deciding whether to grant a variance. He testified that the first criterion for the grant of a sign variance is an unusual practical difficulty or hardship. He stated that he does not advise the SRB as to hardship. When asked if the SRB had given any reasons for its finding of no hardship, Mr. Waterstreet testified that that determination was based on testimony at the hearing.

When asked by the Board why Section 59-F-4.2(b)(4) did not apply to this case, Mr. Waterstreet testified that this provision is rarely used except in the case of larger buildings (he gave the example of a high rise building),<sup>1</sup> although he acknowledged in response to Board questioning that the language of this Section does not address the size of the building. When asked if this restaurant had "building frontage" such that wall signs could be installed on elevations without customer entrances, Mr. Waterstreet testified that building frontage means an entrance and parking; he then read the definition of building frontage set out in Division 59-F-2, which includes a side of a building that has a "main window display." In response to questioning as to whether this building has a main window display, Mr. Waterstreet testified that it did not, explaining that a main window display would be like a storefront with mannequins and other products in it, not a window with posters of sandwiches in it. He explained that a main window display was more of a retail-oriented use, and indicated that a sign in a grocery store window advertising bananas is considered a temporary sign. He testified that this is how DPS has consistently interpreted Section 59-F-4.2(b)(4).

On re-direct, Mr. Waterstreet testified that the purpose of restricting wall signs to elevations with customer entrances is to identify the site and the entrance for the customer. He testified that the purpose behind not allowing signs on sides that do not have entrances is to avoid customer confusion about which side of the building has the entrance. He stated that his understanding of the purpose of this provision derived from his having watched it go through the legislative process. Finally, in response to a Board question, Mr. Waterstreet testified that he agreed that Roy Rogers was applying for these sign variances because they believed that addition signage was necessary to identify their building, adding that all signs fall in that category.

5. Mr. James Plamondon testified that he and his brother own this restaurant, and that their business is headquartered in Frederick. He provided some historical background concerning the Roy Rogers brand, from its start as a Marriott holding to its purchase by Hardee's to the eventual purchase of the brand and trademarks by his family. He testified that he and his brother have owned the

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<sup>1</sup> He later indicated that another reason this provision is rarely used is that the larger buildings usually have entrances on the sides on which they are seeking wall signs.

business for about 12 years, and are trying to re-build the brand. He testified that the subject Property is their twenty-first company restaurant. They now have 50 restaurants total, including 21 company restaurants and 29 franchise restaurants.

Mr. Plamondon testified that the site plan shows Old Columbia Pike running north-south, and Route 198 running east-west. He testified that the rear of his restaurant faces the intersection of Old Columbia Pike and Route 198, which he stated is a signalized intersection. Mr. Plamondon testified that in addition to the traffic signal at the intersection, there are traffic signals at the two entrances to the shopping center.

With respect to the pylon signs, Mr. Plamondon testified that the size of the tenant sign panels is at the discretion of the landlord, and that the biggest tenants usually get the biggest signs. He stated that Roy Rogers has a small panel on the pylon sign along Old Columbia Pike, and that that sign is located 335 feet from the Roy Rogers. See Exhibit 11. He testified that Roy Rogers does not have a panel on the pylon sign along Route 198. Mr. Plamondon testified that a pylon sign serves as a kind of a directory to let people know the tenants of the shopping center. He testified in response to a Board question that once a driver is on the shopping center grounds, there were no signs to direct him or her to the Roy Rogers, that they would simply have to drive around and look for the restaurant.

Mr. Plamondon testified that "quick service restaurants," as he preferred to refer to them, are all about visibility and convenience. He testified that 50 percent of the patrons to his restaurants typically use the drive-thru window. He testified that a quick service restaurant is not a destination use,<sup>2</sup> but rather is used by people who are driving down the road, see the quick service restaurant, and decide that they want to stop and eat. Indeed, in response to a Board question, Mr. Plamondon testified 50 to 55 percent of the business at his Roy Rogers restaurants (as a brand) is drive-by business. Because of this, Mr. Plamondon testified that quick service restaurants need to have signs facing all directions of traffic, and at intersections. He later testified that Exhibits 8(a) and (b) show the restaurant as seen from the intersection of Route 198 and Old Columbia Pike, and that no signs are visible. He then testified that when driving south on Old Columbia Pike, there is no visible sign identifying the Roy Rogers; when driving west on Route 198, there is no visible sign (unless you look behind you after you pass the restaurant), and when traveling north on Old Columbia Pike (from Route 198 west), there is no visible sign. He testified that the only direction of travel from which a sign identifying the building is visible is when one is traveling east on Route 198. He testified that in his experience, this lack of signage imposes a hardship or economic difficulty for him. He testified that they locate their businesses at busy corners for obvious reasons, and yet this restaurant's signage is not visible from that intersection. He testified that Exhibits 8(c) and (d) illustrate that when a driver is heading south on Old Columbia Pike, he or she cannot tell that the subject Property is a Roy Rogers. He testified that he did not think that construction on the as-of-yet unleased pad sites would block the visibility of his

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<sup>2</sup> Mr. Plamondon testified that unlike a quick service restaurant, a sit down restaurant, such as Applebee's, is a destination use.

proposed wall sign (on the north elevation) because the sign would be at the end of the building. He noted that the Capital One Bank has a sign that is visible from the intersection, but that it also has an entrance that faces the intersection.

Mr. Plamondon testified that because of the pedestrian-friendly "town square" nature of the shopping center, he was asked to orient his restaurant such that the entrance faced the interior of the shopping center. He testified that this is unusual for his restaurants, but that in this case it actually works well to have the drive-thru situated as it is. He testified that he was aware of the necessary orientation when he agreed to locate at the Burtonsville Town Square shopping center, and that he was aware of the Montgomery County Sign Ordinance<sup>3</sup> because they had other locations in Montgomery County.

In response to a Board question asking if he had anything concrete to demonstrate hardship, Mr. Plamondon testified that he had his personal experience. He testified that quick service restaurants are a business of convenience, and that the majority of customers simply see the quick service restaurant and decide they want to eat. He testified that the trade journals all say to choose busy intersections when locating quick service restaurants, noting that it is important to have convenience, identification, and accessibility. He testified that his restaurants have comment cards on their tables, and that one patron of this Roy Rogers left an unsolicited comment that there was no sign in front of the restaurant. See Exhibit 7, Attachment 2. Mr. Plamondon testified that he also hires a company to send mystery shoppers into his restaurants twice a month. He testified that the mystery shoppers are sent by this company and are not affiliated with Roy Rogers. He said that the mystery shoppers do a great job rating their experiences. He testified that the opening line of a recent mystery shopper narrative concerning this particular Roy Rogers was that you would not know this restaurant was there. See Exhibit 7, Attachment 1 ("My first impression of this Roy Rogers location is that it is located nicely in a new town center on the corner of two very major roads. However, you wouldn't even know it is there because there is no major signage for this location.").

Mr. Plamondon testified that there is nothing unusual about the signs requested in this variance proceeding, that they are prototypical Roy Rogers signs, of normal size and coloration. He testified that they are about 45 square feet in area each, and that their size is consistent with the size of signs at other Roy Rogers, and is appropriate and necessary to provide visibility, given the distance of the restaurant from the road. He testified that there is no residential development in the immediate vicinity of the building.

On cross-examination, Mr. Plamondon testified that if a driver were stopped at the Old Columbia Pike entrance to this shopping center, he or she could see the pylon sign. He noted that Roy Rogers is not listed on the pylon sign at the Route 198 entrance. When asked how he interpreted the comment card that said no sign in front, Mr. Plamondon testified that he thought the commenter was probably

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<sup>3</sup> References to the County's "Sign Ordinance" are really references to Article F of the County's Zoning Ordinance, Signs.

talking about the drive-thru entrance, but did not know. He also acknowledged that the mystery shopper did not say that he or she could not find the restaurant. Mr. Plamondon then testified that he receives thousands of comments cards and hundreds of mystery shopper reports each year, and that he had never seen any other comments regarding a lack of signage. Mr. Plamondon testified that the Roy Rogers he owns in Germantown is located in a shopping center, and that he had received a sign variance to locate wall signs on all four sides of that restaurant. He testified that he and his brother had planned all along to get the variances necessary to have signs on all four facades of this building, and that they have gotten variances where needed at all of their other Montgomery County locations. He testified that these wall signs are needed and are not redundant. He said there are no directional signs in the shopping center directing people to the Roy Rogers, but that the restaurant does have signs on their site to direct drive-thru traffic. In response to a Board question, he stated that a tall, free-standing sign would be terrific, but that such a sign is not allowed in this type of location.

6. Mr. Neil Brami of Gelberg Signs testified on behalf of the Appellant. Mr. Brami testified that Gelberg Signs has been around since 1941. He stated that he is familiar with the Montgomery County Sign Ordinance, and that he has dealt with the SRB and DPS for about 25 years.

Mr. Brami testified that he designed the signs at issue in this case, and that he has always done the work for Roy Rogers. He testified that the design of this sign package is typical of a quick service restaurant, and that the signs are intended to capture drive-by traffic. He testified that the proposed signage matches the signage on other Roy Rogers in Montgomery County. He testified that it is unusual to have a quick service restaurant with a pad site that faces inwards, noting that most pad sites, even in town center type developments, face outward.

Mr. Brami testified that the two existing wall signs were placed on the sides of the building which have public entrances. He testified that these may not have been the preferred locations, but that as the Sign Ordinance has been interpreted, these were the only by-right locations. Mr. Brami testified that you cannot see the existing signs from the intersection or when approaching the intersection, except when heading east on Route 198.

Mr. Brami testified that the proposed channel letter wall signs are very typical. He testified that the capital "Rs" are the biggest letters and are about 26 inches tall, and that the other letters are smaller. He testified that the size of the letters is the minimum size necessary to provide the needed visibility from a distance of about 300 feet. Mr. Brami testified that the proposed signs are very typical for strip shopping centers or pad sites. He testified that the proposed signs are similar to other signage in the shopping center, and to the signage on other Roy Rogers. Finally, Mr. Brami testified that the panel sign on the Old Columbia Pike pylon sign is only one foot by four feet in area, and that the function of that pylon sign is to indicate the entrance to the shopping center. He testified that the pylon sign does not work for advertising.

In response to a Board question noting that the Fairland Coalition seemed to have concerns about the illumination of the proposed signs, Mr. Brami testified that all of the signs at the shopping center were constructed the same way with respect to illumination. He testified that billboards are 16 feet by 40 feet, and that the proposed signs are thus not similar to billboards (another concern that had been raised by the Fairland Coalition). He testified that in his experience, the desire for wall signs on sides of buildings that do not have public entrances is the most common reason for seeking a sign variance. He testified that he had even seen companies put in additional entrances solely to be able to get wall signs.

Mr. Brami testified that he has been to the SRB several times, and that he was present when the SRB denied the variances requested in this case. He testified that usually there is no opposition to sign variances, but that sometimes there is, as was the case in the instant matter. He testified that he was hopeful that the SRB would grant the variances requested in this case because they had granted the sign variances requested in connection with three other Roy Rogers in the County. On cross-examination, he clarified that he was only certain that two of the other three Roy Rogers needed sign variances. He noted that there had been no opposition at those hearings.

### **CONCLUSIONS OF LAW**

1. Section 59-F-10.2(d) of the Montgomery County Zoning Ordinance provides that "any final decision by the Sign Review Board may be appealed by any aggrieved party to the Board of Appeals within 30 days of the decision." Section 59-F-10.3(b) provides that "the Board of Appeals must hear and decide an appeal de novo." When an appeal from a quasi-judicial body is heard "de novo," the matter is to be tried anew as if it had not been heard before and as if no decision had been previously rendered. In effect, the Board is exercising what amounts to original jurisdiction. For all intents and purposes, it is the first hearing of the case. Pollard's Towing, Inc. v. Berman's Body Frame & Mech., Inc., 137 Md. App. 277, 768 A.2d 131 (2001); Boehm v. Anne Arundel County, 54 Md. App. 497, 459 A.2d 590 (1985); Lohrmann v. Arundel Corp., 65 Md. App. 309, 500 A.2d 344 (1985); Hill v. Baltimore County, 86 Md. App. 642, 587 A.2d 1155 (1991).

2. Consequently, the Board must consider the Appellant's application anew and in light of the criteria for a sign variance set forth in Section 59-F-12.1(a)(1). The burden is on the Appellant to show by a preponderance of evidence that the criteria have been met.

3. Section 59-F-12.1(a)(1) provides that an application for a variance from the sign requirements of Article F may be approved if (A) the strict application of those requirements would result in a particular or unusual practical difficulty, exceptional or undue hardship, or significant economic burden on the applicant; (B) the variance is the minimum reasonably necessary to overcome any exceptional conditions; and (C) the variance can be granted without substantial impairment of the purpose of this Article.



4. Section 59-F-4.1 of the Zoning Ordinance contains the general design elements and limitations imposed on signs. Section 59-F-4.2(b)(2)(A) imposes the following restriction on wall signs in commercial zones:

(A) Number. One sign is allowed for each customer entrance. A customer entrance includes, but is not limited to, a direct outside entrance to a shop or store, and a direct outside entrance to an enclosed mall or shopping center.

5. Section 59-F-4.2(b)(4) of the Zoning Ordinance provides for additional wall signs in the commercial zones under certain circumstances "on each face of the building that has building frontage," and Section 59-F-2 defines "Frontage, building" as follows:

Frontage, Building: The side of a building that abuts, parallels, or is nearest to parallel with, a street, a parking area, or other circulation area open to the general public and that has either a main window display or a public entrance to the building.

6. Based upon the Appellant's binding testimony and the evidence of record, the Board has determined that the requested variances can be granted. In support of this conclusion, the Board finds that the Appellant has demonstrated that the strict application of the sign requirements—namely only allowing wall signs on those elevations which have public entrances--would result in a particular or unusual practical difficulty, exceptional or undue hardship, or significant economic burden on his business, essentially because this quick service restaurant lacks visibility from surrounding roads, and quick service restaurants rely on visibility to capture drive-by traffic, which constitutes a significant portion of their business. Indeed, the Appellant testified that he has significant experience in the quick service restaurant business, that visibility and convenience are key, that trade magazines recommend locating such restaurants at busy intersections, that it is unusual for such a restaurant to face away from the intersection/road, and that 50 to 55 percent of the business at his Roy Rogers restaurants (as a brand) is drive-by business. He provided a comment card from a patron of the subject restaurant asking why there was no sign, and a set of remarks provided by a mystery shopper to the restaurant which state that because of the lack of signage, a potential customer would not know this particular Roy Rogers was there. Mr. Plamondon testified that he had never seen comments about a lack of signage before despite receiving thousands of comment cards and hundreds of mystery shopper reports each year. The Board finds that the photographs in the record, the site plan, and the testimony of the Appellant all demonstrate that drivers passing through the intersection of Route 198 and Old Columbia Pike (in any direction) cannot see the wall sign on the west (front) elevation of this restaurant, and that the wall sign on the south elevation is only visible when traveling east on Route 198 (unless a driver traveling westbound on Route 198 were to turn around and look behind him after he had already passed the restaurant). The Board finds that the fact that the existing wall signs are visible from only one direction of travel is caused by the strict application of Section 59-F-4.2(b)(1) and by the inward orientation of this restaurant that the developer required so as to cultivate a

pedestrian-friendly, town square-style shopping center. The Board finds that the result of this—having wall signage that is, for all practical purposes, only visible from one of four directions of travel—constitutes an unusual practical difficulty and economic burden for a quick service restaurant which, as stated above and per the testimony of the Appellant, depends on its visibility and drive-by traffic for a substantial portion of its business.

The Board further finds, based on the testimony of the Appellant and of Mr. Bami, that the proposed signs are the minimum reasonably necessary to overcome the difficulties caused by the lack of visible signage allowed under the strict application of the Zoning Ordinance, in order to provide this restaurant with the visibility it needs. The Board notes in this regard that the Appellant testified that the proposed signs are consistent with the size of the signs at other Roy Rogers, about 45 square feet in area each, and that their size is appropriate and necessary to provide visibility from the road. Mr. Bami offered similar testimony. The Board notes that Mr. Bami testified that the capital "Rs" on the proposed wall signs are about 26 inches tall, and that the new signs, even taken together, do not approach "billboard size" as alleged by the Fairland Coalition.


Finally, the Board finds that the variances can be granted without substantial impairment of the purpose of Article 59-F, namely to regulate the size, location, height and construction of all signs placed for public view. Article 59-F is intended, among other things, to encourage the effective use of signs and to promote the use of signs to identify buildings. See Section 59-G-1.2 The Board finds that the grant of the requested variances to allow wall signs on the north and east elevations of this Roy Rogers will serve to identify this building in a manner consistent with other Roy Rogers restaurants in the County. The Board notes that the proposed signs were shown on the drawings approved by this Board and by the Planning Board in connection with the grant of the special exception for this restaurant. The Board further notes testimony from the Appellant and from Mr. Bami that other Roy Rogers restaurants in the County had been granted similar sign variances.

7. Though it is not necessary to state it here because of the de novo nature of this proceeding, the Board does not agree with the findings of the SRB. The Board finds that the proposed wall signs are not redundant, as only one of the two existing wall signs is visible at all from the road, and it is visible from only one of four directions of travel. The Board is not persuaded that the small panel sign contained on the Old Columbia Pike pylon sign marking the shopping center is sufficient to identify the restaurant. The Board further finds, as explained previously, that the Appellant has demonstrated the requisite hardship and economic burden that not being able to have the additional wall signs needed to give his business visibility from the road will cause him.

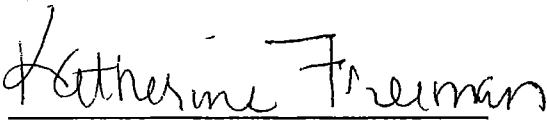
8. For all of the foregoing reasons, the requested sign variances needed to permit the installation of wall signs on the north and east elevations of this Roy Rogers are **GRANTED**.

On a motion by Member Carolyn J. Shawaker, seconded by Member Stanley B. Boyd, with Chair Catherine G. Titus, Vice Chair David K. Perdue, and Member John H. Pentecost in agreement, the Board voted 5 to 0 to adopt the following Resolution:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the Opinion stated above be adopted as the Resolution required by law as its decision on the above-entitled petition.

  
Catherine G. Titus  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 24<sup>th</sup> day of June, 2013.

  
Katherine Freeman  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within ten (10) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 2-A-10(f) of the County Code).

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.

