

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
8 th Election District *	OFFICE OF
3 rd Councilman District *	ADMINISTRATIVE HEARINGS
(30-115 West Ridgely Road) *	
Yorkridge Shopping Center, LLC *	FOR BALTIMORE COUNTY
Petitioner *	Case No. 2013-0104-SPHA
* * * * *	

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed by David H. Karceski, Esquire, on behalf of Yorkridge Shopping Center, LLC, legal owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to amend the Order and site plan approved in Case No. 2012-0082-A. In addition, a Petition for Variance was filed pursuant to B.C.Z.R. § 409.6.A.2 to permit 846 off-street parking spaces in lieu of the required 1,066¹ spaces. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the requests was Jeffrey Gaber, Mark Ronbaum, and Bill Monk, with Morris & Ritchie Associates, Inc., the consulting firm that prepared the site plan. David H. Karceski, Esquire and Justin Williams, Esquire appeared as counsel and represented the Petitioner. Eric Rockel, an interested citizen, attended the hearing.

¹ An amended Petition was filed at the hearing (Petitioner’s Exhibit 2) reducing the required number of spaces to 1,061.

The file reveals that the Petition was properly posted and advertised as required by the Baltimore County Zoning Regulations.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse ZAC comments received from any of the County reviewing agencies.

The subject property is 15.39 acres (parcel 1 - 14.89 acres and parcel 2 – 0.50 acres) and is zoned BL-CCC, BL, and ML-IM. The property is improved with a strip shopping center that has had a renaissance of sorts in recent years. The center has attracted quality tenants and has a nice appearance.

Based on the evidence presented, I find that the variance can be granted in such a manner as to meet the requirements of Section 307 (as well as Section 409.6.A.2) of the B.C.Z.R., as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995). I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Indeed, and as noted in the previous case involving this center, the parcel is uniquely shaped and is situated in a “valley” created by a steep grade change and drop off in elevation from York Road, which adjoins the site. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship, given that Petitioner would be unable to complete its planned enhancements. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This is demonstrated by the absence of opposition from the community and County reviewing agencies, and Mr. Monk opined that sufficient parking would be provided at the site.

Although Mr. Rockel did not object to the Petition, he did believe that the number of available parking spaces should not be reduced any further. In addition, he met with the Petitioner and prepared a statement - - which will be attached as an Exhibit hereto - - concerning parking at the center, and the owners indicated they have at various times emphasized to their tenants that employees of the businesses should park on the periphery of the lot.

I also believe the request for Special Hearing should be granted. That involves solely the amendment of a prior Order involving this site, in accordance with the terms of this Order.

Pursuant to the posting of the property, public hearing, and after considering the testimony and evidence offered, I find that Petitioner's Special Hearing and Variance requests should be granted.

THEREFORE, IT IS ORDERED this 31st day of December, 2012, by the Administrative Law Judge, that the Petition for Special Hearing seeking relief from § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to amend the Order and site plan approved in Case No. 2012-0082-A, in accordance with the terms of this Order, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance filed pursuant to B.C.Z.R. § 409.6.A.2 to permit 846 off-street parking spaces in lieu of the required 1,061 spaces, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner will communicate with its tenants and emphasize the importance of the parking concerns articulated in the Exhibit attached hereto, which is expressly incorporated herein by reference.
2. Petitioner may apply for its appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln