

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(118 Shawan Road)		
8 th Election District	*	OFFICE OF
3 rd Council District		
Hunt Valley Towne Centre, LLC	*	ADMINISTRATIVE HEARINGS
Sears Roebuck and Co.		
<i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
Petitioners		
	*	Case No. 2015-0232-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Hunt Valley Towne Centre, LLC (“Hunt Valley”) and Sears Roebuck and Co. (“Sears”), legal owners. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to confirm that Hunt Valley (owner of Parcel 31, Lot 1B and Lot 1C) and Sears (Owner of Parcel 31, Lot 1A) are each entitled to their proportionate share of a parking variance granted in zoning Case No. 2011-0152-SPHA.

Appearing at the public hearing in support of the request was Donna Sills and Mitch Kellman, Director of Zoning Services at Daft McCune Walker Inc. David Karceski, Esq. represented Hunt Valley and Jen Busse, Esq. represented Sears. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. No substantive Zoning Advisory Committee (ZAC) comments were received. There were no protestants or interested citizens in attendance.

The subject property is 84.685 acres and zoned BM-CT and BM. The Hunt Valley Towne Center is located at the site. The site is comprised of three lots: Lot 1A (11.749 acres), Lot 1B (59.615 acres) and Lot 1C (13.318 acres). Lot 1A is owned by Sears, and is improved with a

159,000 sq. ft. Sears department store. Lots 1B and 1C are owned by Hunt Valley, and contain a Wegman's grocery store, restaurants, retail shops and other commercial uses.

In 2011, former Administrative Law Judge (ALJ) Kotroco granted a variance permitting 4,120 off-street parking spaces in lieu of the 5,015 spaces required. Exhibit 4 (Order and site plan). The sole Petitioner in that case was Hunt Valley, even though the site plan shows the same 84.685 acres of land (including Lot 1A owned by Sears) at issue in this matter. As I explained at the hearing, I believe Sears should have been a Petitioner in the 2011 zoning case, even though it seems clear that the variance granted by the ALJ encompassed their property. To "tie up loose ends" (so to speak) the Petition in this case was amended at the hearing to include a special hearing request to amend the Order in Case No. 2011-0152-SPHA to include Sears as a Petitioner therein.

The sole purpose of this special hearing petition is to formally allocate between Sears and Hunt Valley a "proportionate share of the parking variance" granted in the 2011 case. Mr. Kellman, who was accepted as an expert in zoning matters, testified that the variance granted in 2011 equated to a 17.8% reduction in the required number of parking spaces. The number of off-street parking spaces required for this site (as determined by the Department of Permits, Approvals and Inspections) has changed since the 2011 case. Mr. Kellman testified that a regulation was recently enacted (B.C.Z.R. §409.6.B.1.b) permitting a 25% reduction in parking requirements for certain developments with mass transit stops. As such, the order below will not refer to any particular number of spaces required, but will simply provide that Hunt Valley and Sears are both beneficiaries of the relief granted in the 2011 zoning case and are entitled to a proportionate share of the variance granted.

THEREFORE, IT IS ORDERED this 19th day of June, 2015 by this Administrative Law Judge, that the Petition for Special Hearing pursuant to B.C.Z.R. § 500.7 to confirm that Hunt

Valley Towne Centre LLC (owner of Parcel 31, Lot 1B and Lot 1C) and Sears Roebuck and Co. (owner of Parcel 31, Lot 1A) are each entitled to their proportionate share of the parking variance (i.e., a 17.8% reduction in the number of off-street parking spaces otherwise required by B.C.Z.R. §409) granted in zoning Case No. 2011-0152-SPHA, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Opinion and Order in Case No. 2011-0152-SPHA be and is hereby AMENDED to include as a Petitioner therein Sears Roebuck and Co.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln