

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2008 & 2012 E. Joppa Road)		
9 th Election District	*	OF ADMINISTRATIVE
5 th Council District		
Norino Properties LLC, <i>Legal Owner</i>	*	HEARINGS FOR
Chick-fil-A, Inc., <i>Lessee</i>		
Petitioners	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0245-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of Norino Properties LLC, legal owner and Chick-fil-A, Inc., lessee (“Petitioners”). The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) § 409.6 to allow a total of 79 off-street parking spaces in lieu of the required 89 parking spaces. A site plan was marked and admitted as Petitioners’ Exhibit 1.

David H. Karceski, Esq. appeared and represented the Petitioners. No Protestants or interested citizens were in attendance. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Bureau of Development Plans Review (DPR). That agency noted that a landscape plan is required.

The subject property is approximately 1.69 acres and is zoned BL. The property is comprised of two (2) lots. One is improved with a bank while the other contains a Chick-Fil-A restaurant. The restaurant is constructing a 600 sq. ft. addition, which will contain freezers and office space, but no customer seating. *See*, Petitioners’ Exhibit 4 (floorplan). Though the number of parking spaces on site will remain the same, an additional ten (10) spaces are required under the B.C.Z.R. As such, variance relief is required.

To obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, petitioner will experience a practical difficulty or hardship.

Trinity Assembly of God v. People's Counsel, 407 Md. 53, 80 (2008).

Petitioners have met this test. As noted in Case No. 07-003-A which involves the same property, the parcels are irregularly shaped and are therefore unique. Petitioners would experience a practical difficulty if the regulations were strictly interpreted, since they would be unable to construct the proposed addition. 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 lack of County and/or community opposition.

THEREFORE, IT IS ORDERED, this 30th day of **June, 2015**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations ("B.C.Z.R.) § 409.6 to allow a total of 79 off-street parking spaces in lieu of the required 89 parking spaces, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- 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 made within thirty (30) days of the date of this Order.

JEB:dlw

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County