

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b> *	BEFORE THE
<b>AND VARIANCE</b>	
(401-435 York Road) *	OFFICE OF
9 <sup>th</sup> Election District	
5 <sup>th</sup> Council District *	ADMINISTRATIVE HEARINGS
Garrison Towson, LLC, <i>Owner</i>	
Towson Commons Retail, LLC *	FOR BALTIMORE COUNTY
<i>Contract Purchaser</i>	
Petitioners *	<b>Case No. 2016-0034-SPHA</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of Garrison Towson, LLC, owner and Towson Commons Retail, LLC, contract purchaser. (“Petitioners”). The Special Hearing was filed pursuant to §500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve an amendment to the previously approved plan in Case No. 06-677-SPH. In addition, a Petition for Variance seeks to allow 25 off-street parking spaces for two condominium units, Retail Unit Nos. 2 and 3, in lieu of the required 274 parking spaces. A two-sheet site plan was marked and accepted into evidence as Petitioners’ Exhibit 1A & 1B.

Appearing at the public hearing in support of the requests was Mike Stoltz and landscape architect Matthew Bishop. David H. Karceski, Esq. represented the Petitioner. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants or interested citizens in attendance. No substantive Zoning Advisory Committee (ZAC) comments were received.

The subject property is 3.36 acres and zoned BM-CT. The Towson Commons retail complex was constructed on the site approximately 20 years ago. In recent years the center has had many vacancies and the purchaser hopes to revitalize the property with new tenants and businesses to serve the community. The only substantive relief sought concerns the number of

parking spaces allocated to these condominium units, which in the aggregate constitute 91,382 sq. ft. of retail space within the much larger Towson Commons complex.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

*Cromwell v. Ward*, 102 Ms. App. 691 (1995).

Petitioners have met this test. The property is irregularly shaped and much of the retail space in the cavernous building is below street grade. As such it is unique. If the B.C.Z.R. were strictly interpreted, Petitioners would experience a practical difficulty, given they would be unable to consummate the proposed sale and lease the now vacant space to commercial tenants. 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 lack of County and/or community opposition. In fact, both the Greater Towson Council of Community Associations (GTCCA) and The Greater Towson Committee (GTC) expressed support for the request.

The petition for special hearing merely seeks to amend the previously approved plans to reflect the variance relief granted in this case. This is in the nature of a “housekeeping” measure, and the request does not seek substantive zoning relief. As such the petition will be granted.

THEREFORE, IT IS ORDERED this 6<sup>th</sup> day of October, 2015, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to §500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve an amendment to the previously approved plan in Case No. 06-677-SPH, to reflect the variance relief granted below, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to allow 25 off-street parking spaces for two condominium units, shown on the plan as Retail Unit Nos. 2 and 3, in lieu of the required 274 parking spaces, be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon 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 made within thirty (30) days of the date of this Order.

JEB/sln

Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County