IN RE: PETITION FOR VARIANCE (1016 Ingleside Avenue) 1 st Election District				*			BEFORE THE OFFICE
				*	:		OF ADMINISTRATIVE
1 st Council District Asha & Chandler Tschand				*			HEARINGS FOR
Legal Owners				*	:		BALTIMORE COUNTY
Petitioners				*			CASE NO. 2017-0330-A
	*	*	*	*	*	*	*

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Asha and Chandler Tschand, owners of the subject property ("Petitioners"). Petitioners are requesting variance relief from §§409.6 & 409.4.C of the Baltimore County Zoning Regulations ("B.C.Z.R") as follows: (1) to permit a total of 36 existing parking spaces in lieu of the required 41 parking spaces; and (2) to permit an existing 11 ft. drive aisle in lieu of the required 22 ft. drive aisle. A site plan was marked as Petitioners' Exhibit 1.

Shanna Tschand appeared in support of the petition. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR). Neither agency opposed the request.

The site is approximately 17,561 square feet in size and split-zoned DR 5.5/BL. The site is improved with a one-story commercial building constructed in 1974. A tavern was previously operated at the site, but Petitioners opened a restaurant several years ago. Petitioners applied for a permit for an awning to cover an outdoor dining area and were informed by the Office of Zoning Review there was insufficient parking at the site. As such this petition was filed.

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 Md. App. 691 (1995).

The property has irregular dimensions and is therefore unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to continue operating their restaurant. Finally, I find that the variances 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 community and/or Baltimore County opposition.

THEREFORE, IT IS ORDERED, this 1st day of August, 2017, by the Administrative Law

Judge for Baltimore County that the Petition for Variance as follows: (1) to permit a total of 36

existing parking spaces in lieu of the required 41 parking spaces; and (2) to permit an existing 11

ft. drive aisle in lieu of the required 22 ft. drive aisle, be and is hereby GRANTED.

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.
- 2. Petitioners must within 60 days of the date hereof remove the shipping container from the site.
- 3. Prior to issuance of permits Petitioners must submit for approval by Baltimore County landscape and lighting plans.

- 4. Petitioners must remove any illegal signage, banners or flags within 30 days of the date hereof.
- 5. Prior to issuance of permits Petitioners must restripe all parking spaces as shown on the site plan marked as Exhibit 1.

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