

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(9920, 9924 and 9926 York Road))	*	OFFICE OF
8 th Election District		
3 rd Council District	*	ADMINISTRATIVE HEARINGS
Church Lane Shops, LLC	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	Case No. 2017-0351-SPHA

* * * * *

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 Church Lane Shops, LLC, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: (1) to approve an amendment to the site plan approved in Case No. 1992-0284-A; and (2) to approve the number and layout of the proposed off-street spaces on the subject property as indicated on the accompanying site plan. In the alternative, a Petition for Variance seeks: (1) approval of a total of 426 off-street parking spaces in lieu of the required 503 parking spaces; and (2) to permit parking spaces in a surface parking facility for a nonresidential use to be as close as 6 ft. from a public street right-of-way in lieu of the required 10 ft. A redline site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Landscape architect Matthew Bishop and professional engineer Joseph Caloggero appeared in support of the requests. David H. Karceski, Esq. and Adam Rosenblatt, Esq. represented the Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A

substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency did not oppose the request.

The subject property (in its entirety) is 7.809 acres in size and zoned BR. The property is improved with a shopping center, and is located at the intersection of York and Cranbrook Roads in Cockeysville. This case involves a freestanding building on the site, which sits apart from the strip shopping center. The building is vacant and was last used as a bank. A Starbucks drive thru plans to open at the location, although zoning relief is required.

VARIANCES

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).

This property is irregularly shaped and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to renovate and lease the vacant building for restaurant use. 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. Given the disposition of the variance petition, the special hearing request will be dismissed without prejudice.

THEREFORE, IT IS ORDERED this 11th day of **August, 2017**, 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.”) as follows: (1) to approve an amendment to the site plan

approved in Case No. 1992-0284-A; and (2) to approve the number and layout of the proposed off-street spaces on the subject property as indicated on the accompanying site plan, be and is hereby DISMISSED without Prejudice as MOOT.

IT IS FURTHER ORDERED that the Petition for Variance: (1) to approve a total of 426 off-street parking spaces in lieu of the required 503 parking spaces; and (2) to permit parking spaces in a surface parking facility for a nonresidential use to be as close as 6 ft. from a public street right-of-way in lieu of the required 10 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- 1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its 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, Petitioner 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.

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln