

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(1524 York Road)	*	OFFICE OF
8 <sup>th</sup> Election District		
3 <sup>rd</sup> Council District	*	ADMINISTRATIVE HEARINGS
Winterset LLC	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	<b>Case No. 2018-0061-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 Winterset, LLC, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve commercial parking in a residential zone. A Petition for Variance seeks to modify certain RTA standards as follows: 0 ft. in lieu of the required 75 ft. RTA setback for parking lots, and 0 ft. in lieu of the required 50 ft. RTA buffer. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 4.

Stan Dorman and professional engineer Rich Richardson appeared in support of the requests. Edward J. Gilliss, Esq. represented the Petitioner. Eric Rockel, president of the Greater Timonium Community Council Inc., attended the hearing but did not oppose the requests. 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 DOP, and its concerns will be included as conditions in the Order below.

**SPECIAL HEARING**

The petition for special hearing seeks approval for commercial parking in a residential zone. The area in question is a relatively small rectangular portion of land zoned DR 5.5, which abuts

several existing single family dwellings. Mr. Dorman testified (via proffer) he wrote to each of the adjoining property owners to notify them of the zoning requests, and no one contacted him or expressed any concerns. In addition, Mr. Rockel noted this area has been used in connection with the commercial operation at the site since the mid 1960's.

Based on the proffered testimony of Messrs. Dorman and Richardson (who opined Petitioner satisfied each of the requirements set forth in B.C.Z.R. § 409.8.B concerning business parking in residential zones) I will grant the petition for special hearing.

### 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).

The subject property has an irregular shape and as noted by Mr. Rockel it is the only commercial property along this stretch of York Road which extends into the adjoining residential zone. As such the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to continue using the lot. 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.

THEREFORE, IT IS ORDERED this 10<sup>th</sup> day of **October, 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.") to approve commercial parking in a residential zone be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to modify certain RTA standards as follows: 0 ft. in lieu of the required 75 ft. RTA setback for parking lots, and 0 ft. in lieu of the required 50 ft. RTA buffer, 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.
2. Petitioner must comply with the DOP ZAC comment, a copy of which is attached.

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

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:sln