

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(1600 Old Eastern Avenue)		
15 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
Aldi Inc.	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2018-0083-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Aldi, Inc., legal owner of the subject property (“Petitioner”). The Petition seeks variance relief from § 307.1 of the Baltimore County Zoning Regulations (“BCZR”) to allow 76 parking spaces to be provided in lieu of the 98 parking spaces. A site plan was marked as Petitioner’s Exhibit 1.

Rachael Kegerise with Aldi, Inc. and Teresa A. Lower, professional engineer with Kimley-Horn and Associates, Inc., the engineering firm that prepared the site plan, appeared in support of the petition. Neill Thupari, Esq. and Patricia A. Malone, Esq. with Venable, LLP, represented the Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. No substantive Zoning Advisory Committee (“ZAC”) comments were received from any of the County reviewing agencies.

The site is approximately 2.31 acres in size and zoned BL-AS. The site is improved with a one-story commercial building in which is located an Aldi grocery store. Aldi has operated the store at the site for approximately 15 years, and would like to expand the store to accommodate its growing customer base. The expansion (of approximately 3,000 sq. ft.) will result in the loss of a certain number of on-site parking spaces, which necessitates the variance request.

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 site is L-shaped and is located in the Essex Commercial Revitalization District. See Exhibit 4. As such, the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to complete the proposed store expansion. Finally, I find that the variance can be granted in harmony with the spirit and intent of the BCZR, 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 30th day of **January, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 307.1 of the Baltimore County Zoning Regulations (“BCZR”) to allow 76 parking spaces to be provided in lieu of the 98 parking spaces required, 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.

JEB:dlw

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County