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| IN RE: PETITIONS FOR SPECIAL HEARING | * | BEFORE THE |
| AND VARIANCE | | |
| (8730 Liberty Road) | * | OFFICE OF |
| 2 nd Election District | | |
| 4 th Council District | * | ADMINISTRATIVE HEARINGS |
| Cole Wm Randallstown MD, LLC, | | |
| <i>Legal Owner</i> | * | FOR BALTIMORE COUNTY |
| Wal-Mart Stores East, LP | | |
| <i>Lessee</i> | * | Case No. 2018-0110-SPHA |
| Petitioners | | |
| * * * * * | | |

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 Cole Wm Randallstown MD, LLC, legal owner and Wal-Mart Stores, lessee (“Petitioners”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”): (1) to permit the amendment of the approved plan and the Order associated with Case No. 2012-0192-A as is necessary in connection with the signage variances requested herein; and (2) to permit the amendment of the approved plan and the Order associated with Case No. 2011-0249-A as is necessary in connection with the parking variance requested herein.

A Petition for Variance seeks: WALL-MOUNTED ENTERPRISE SIGNS (1) To permit eight (8) total wall-mounted enterprise signs on the existing Wal-Mart store, in lieu of the three (3) total wall-mounted enterprise signs permitted for a single premises; (2) To permit six (6) total wall-mounted enterprise signs along the front façade of the existing Wal-Mart store in lieu of the two (2) permitted along a single façade; and (3) To permit one (1) wall-mounted enterprise sign approximately 157.90 sq. ft. in area in lieu of the maximum 150 sq. ft. permitted for a single sign.

PARKING: (1) To permit a total of 661 parking spaces (4.11 spaces per 1,000 sq. ft. of floor area) in lieu of the 805 parking spaces (5.0 spaces per 1,000 sq. ft. of floor area) required under the B.C.Z.R.to serve the existing Wal-Mart store on the subject property.

This case involves the Wal-Mart store which opened recently on Liberty Road in the Randallstown area. A cursory review of the Petition would suggest this case is complex, but in fact only minor changes are proposed at the site. Essentially, as discussed below, the case involves three variance requests for signage at the Wal-Mart, and the requests are in keeping with other signage packages approved for Wal-Mart stores in Baltimore County. Counsel explained Wal-Mart is introducing a service at this store where customers can order groceries online and pick them up at the store in an area designated for that purpose. A sign will be installed on the side of the store (which requires a variance) directing customers to a grocery pick up area. Six parking spaces will be earmarked for that purpose. The Office of Zoning Review (OZR) informed Petitioners those six spaces could not be counted in the parking total for the site, and thus a parking variance was required. Further details can be found on the site plan marked and accepted into evidence as Petitioners' Exhibit 1.

Professional engineer Melanie DeFazio appeared in support of the requests. Thomas C. Kleine, Esq. represented Wal-Mart. 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.

SPECIAL HEARING

The special hearing requests are essentially housekeeping matters. That is, the OZR prefers that site plans be amended and updated to reflect a property's zoning history. Site plans were

previously approved for this Wal-Mart store in 2011 and 2012 zoning hearings, and Petitioners seek an amendment of those plans to reflect the signage and parking variance relief granted herein. As such the petition for special hearing will be granted.

VARIANCE

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 an irregular shape and was found to be unique in two recent zoning cases. As such I believe Petitioners have satisfied this prong of the variance requirements. The variance requests are relatively minor, and the appearance and use of the site will not change in any material fashion. As such, I do not believe granting the requests will have a detrimental impact upon the community, and the petition will be granted.

THEREFORE, IT IS ORDERED this 18th day of **December, 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”): (1) to permit the amendment of the approved plan and the Order associated with Case No. 2012-0192-A as is necessary in connection with the signage variances requested herein; and (2) to permit the amendment of the approved plan and the Order associated with Case No. 2011-0249-A as is necessary in connection with the parking variance requested herein, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance: (1) To permit eight (8) total wall-mounted enterprise signs (the existing Wal-Mart sign with the “spark” logo on the front

façade of the store, identified as Sign #1, shall be considered one sign) on the existing Wal-Mart store, in lieu of the three (3) total wall-mounted enterprise signs permitted for a single premises; (2) To permit six (6) total wall-mounted enterprise signs along the front façade of the existing Wal-Mart store in lieu of the two (2) permitted along a single façade; (3) To permit one (1) wall-mounted enterprise sign approximately 157.90 sq. ft. in area in lieu of the maximum 150 sq. ft. permitted for a single sign; (4) To permit a total of 661 parking spaces (4.11 spaces per 1,000 sq. ft. of floor area) in lieu of the 805 parking spaces (5.0 spaces per 1,000 sq. ft. of floor area) required under the B.C.Z.R. to serve the existing Wal-Mart store on the subject property, 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.

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