

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(180 Winters Lane)	*	OFFICE OF
1 st Election District		
1 st Council District	*	ADMINISTRATIVE HEARINGS
Premier Lounge, LLC	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	Case No. 2018-0149-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 Premier Lounge, LLC, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to allow business parking in a residential zone. A Petition for Variance seeks: **(1)** to allow business parking in a residential zone; **(2)** to allow 7 parking spaces in lieu of the required 91 spaces; **(3)** to allow parking at a distance to a street line of 5 ft. in lieu of the required 10 ft.; **(4)** to not provide a backup area for the end parking space; **(5)** to allow a 3 ft. wide landscape strip adjacent to the residential property in lieu of the required 10 ft. and to allow a 6 ft. high wood screen fence in lieu of planting; **(6)** to allow 3 ft. between the edge of the parking lot and the face of the building in lieu of the required 6 ft.; **(7)** to allow a 5 ft. setback from a dumpster enclosure to a residential property line and an 8 ft. setback to a R/W line in lieu of the required 10 ft., and **(8)** to allow a 3 ft. RTA buffer and a 3 ft. setback in lieu of the required 50 ft. RTA buffer and 75 ft. setback. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Tiffany and Steve Patterson, and landscape architect Thomas J. Hoff, appeared in support of the requests. Abraham Hurdle, Esq. represented the Petitioner. Several neighbors attended the hearing and opposed the requests. The Petition was advertised and posted as required by the

Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR).

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).

While I agree with Mr. Hoff that certain attributes of the property render it unique, that is not the end of the inquiry. The primary concern in this case, as articulated by the neighbors, is that the number of parking spaces provided is simply inadequate for a restaurant/tavern. Under the Regulations 91 parking spaces are required for the facility, while the plan shows only 7 on-site spaces.

Petitioner noted it has verbal agreements with a church and another property owner across the street to allow for parking for patrons of this establishment. But the regulations contain specific requirements for off-site parking, as follows: “Prior to the approval of any building permit involving an off-site parking facility, the Director of Permits, Approvals and Inspections shall require guarantees of the continued future availability and proper maintenance of the facility, including, but not limited to, a grant of an easement, a deed restriction, a restrictive covenant or a binding contractual agreement, including a lease. Any plans approved are conditioned upon and subject to periodic review by the Director to ensure that adequate parking arrangements continue to exist.” BCZR §409.7.C. Since the Petitioner does not at this time have a lease or other binding

agreement to ensure the “continued future availability” of this off-site parking, I do not believe it can be considered in connection with this hearing.

THEREFORE, IT IS ORDERED this 19th day of **March, 2018**, 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 allow business parking in a residential zone, be and is hereby DISMISSED WITHOUT PREJUDICE..

IT IS FURTHER ORDERED that the Petition for Variance **(1)** to allow business parking in a residential zone; **(2)** to allow 7 parking spaces in lieu of the required 91 spaces; **(3)** to allow parking at a distance to a street line of 5 ft. in lieu of the required 10 ft.; **(4)** to not provide a backup area for the end parking space; **(5)** to allow a 3 ft. wide landscape strip adjacent to the residential property in lieu of the required 10 ft. and to allow a 6 ft. high wood screen fence in lieu of planting; **(6)** to allow 3 ft. between the edge of the parking lot and the face of the building in lieu of the required 6 ft.; **(7)** to allow a 5 ft. setback from a dumpster enclosure to a residential property line and an 8 ft. setback to a R/W line in lieu of the required 10 ft., and **(8)** to allow a 3 ft. RTA buffer and a 3 ft. setback in lieu of the required 50 ft. RTA buffer and 75 ft. setback, be and is hereby DENIED.

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