

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(1809 & 1811 Rolling Road)		
1 <sup>st</sup> Election District	*	OF ADMINISTRATIVE
1 <sup>st</sup> Council District		
Windsor MZL, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	<b>CASE NO. 2019-0033-A</b>
* * * * *		

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Windsor MZL, LLC, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) to permit 378 parking spaces for a shopping center in lieu of the required 452 parking spaces. A site plan was marked as Petitioner’s Exhibit 1.

Greg Reed and professional engineer Michael Gesell appeared in support of the petition. Caroline L. Hecker, Esq. and Justin Williams, Esq. represented Petitioner. No protestants or interested citizens were in attendance. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (“DOP”) and the Bureau of Development Plans Review (“DPR”). Neither agency opposed the request.

The site is approximately 7.11 acres in size and split-zoned BM-CT & BL. The site is located at the intersection of N. Rolling Road and Security Boulevard and is improved with a shopping center anchored by a Weis Market and fuel service station. A First Mariner bank branch at the periphery of the parking lot (i.e., a pad site) closed in June, 2016, and that building will be converted to an Arby’s fast food restaurant. This change in use generated the need for variance relief concerning the number off off-street parking spaces.

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 large site has irregular dimensions and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to operate the fast food restaurant at this location. 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 absence of County and/or community opposition.

THEREFORE, IT IS ORDERED, this 2<sup>nd</sup> day of **October, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit 378 parking spaces for the shopping center in lieu of the required 452 parking spaces, 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 ZAC comments submitted by DOP and DPR, copies of which are attached.

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