

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(1401-1417 Merritt Blvd)	*	OFFICE OF
12 <sup>th</sup> Election District		
7 <sup>th</sup> Council District	*	ADMINISTRATIVE HEARINGS
Oekos Dundalk, LLC	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	<b>Case No. 2019-0144-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 Oekos Dundalk, LLC, legal owner (“Petitioner”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve an amendment to the site plan approved in Case No. 2008-0336-A. A petition for variance seeks to allow a total of 990 off-street parking spaces in lieu of the required 1,131 parking spaces. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Gary Getz, Mark Keeley, Ken Myers and Laurie Mazzotta appeared in support of the requests. David H. Karceski, Esq. represented the Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (“DOP”). That agency did not oppose the requests.

**SPECIAL HEARING**

The special hearing request is essentially a housekeeping matter, in that it seeks only to amend a site plan approved in a 2008 zoning case which also granted variance relief in connection

with off-street parking at this shopping center. 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 is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to attract new tenants to the shopping center. 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 County and/or community opposition. In addition, Mr. Keeley, a transportation planner accepted as an expert, conducted a parking utilization study at the site and determined that even at peak periods the off-street parking at the center would only be 73% occupied. As such, I do not believe granting the petition will have any discernable impact upon the community.

THEREFORE, IT IS ORDERED this 7<sup>th</sup> day of **January, 2019**, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to Section 500.7 of the BCZR to approve an amendment to the site plan approved in Case No. 2008-0336-A, to reflect the variance relief granted herein, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to allow a total of 990 off-street parking spaces in lieu of the required 1,131 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.

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