IN RE: PETITION FOR VARIANCE   *   BEFORE THE OFFICE

    (1400 Eastern Blvd.)

    15th Election District   *   OF ADMINISTRATIVE

    7th Council District

Middlesex Associates, LLP *Legal Owner*   *   HEARINGS FOR

    Auto Body Evolution,

      Lessee   *   BALTIMORE COUNTY

    Petitioners   *   **CASE NO. 2019-0172-A**

        *   *   *   *   *   *   *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings ("OAH") for Baltimore County as a Petition for Variance filed by Middlesex Associates, LLP, legal owner of the subject property, and Auto Body Evolution, lessee ("Petitioners"). Petitioners are requesting variance relief from Section 409.6.A.2 of the Baltimore County Zoning Regulations ("BCZR") to allow a total of 1,111 parking spaces in lieu of the required 1,140 parking spaces. A site plan was marked as Petitioners' Exhibit 1.

Professional engineer Matthew Sichel and Dennis Huff appeared in support of the petition. Patricia A. Malone, Esq. represented Petitioners. There were no prote stants 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 request.

The site is approximately 28 acres in size and zoned BM-CCC. The property is improved with a strip shopping center known as the Middlesex Shopping Center. This case however concerns only an 8,000 sq. ft. freestanding commercial building at the center previously used as a Goodyear Tire & Auto store. Lessee plans to operate an auto body and fender repair business in the building and plans to construct a small (approximately 2,000 sq. ft.) addition to the existing

structure. The Office of Zoning Review advised Petitioners that the off-street parking requirements needed to be calculated in the aggregate for the entire strip center, even though the subject property is in essence a freestanding pad site. In any event, that explains the large number of spaces referenced in the petition.

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 irregular dimensions and is therefore unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to operate the business at this site. 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 **22nd** day of **February, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Section 409.6.A.2 of the Baltimore County Zoning Regulations ("BCZR") to allow a total of 1,111 parking spaces in lieu of the required 1,140 parking spaces, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

• 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.

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- Petitioners must comply with the ZAC comment submitted by the DOP, a copy of which is attached hereto and incorporated herein.

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