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| IN RE: PETITION FOR VARIANCE | * | BEFORE THE OFFICE |
| (1501-1575 Merritt Blvd.) | | |
| 12 th Election District | * | OF ADMINISTRATIVE |
| 7 th Council District | | |
| Merritt Boulevard Property, LLP | * | HEARINGS FOR |
| <i>Legal Owner</i> | | |
| Petitioner | * | BALTIMORE COUNTY |
| | * | CASE NO. 2019-0330-A |

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Merritt Boulevard Property, LLP, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Section 409.6 of the Baltimore County Zoning Regulations (“BCZR”) to allow a total of 433 parking spaces in lieu of the required 668 parking spaces pursuant to the pre-May 26, 1988 zoning regulations. A site plan was marked as Petitioner’s Exhibit 1.

Christopher D’Anna, Mark Keeley, Scott Cherry, Thomas Shekells and Josh Sharon appeared in support of the petition. David H. Karceski, Esq. represented 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 Bureau of Development Plans Review (“DPR”).

The site is approximately 7.52 acres in size and is zoned BM. The property is improved with a strip shopping center and several retail pad sites. Petitioner is not at this time proposing any alteration or enlargement of the existing improvements. The zoning relief is sought to provide Petitioner with latitude when marketing certain of the storefronts to prospective tenants, including restaurants which of course require a greater number of parking spaces than other retail

or office uses.

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 shopping center was constructed approximately 45 years ago and Petitioner must contend with long-existing site improvements. As such the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be unable to market vacant tenant space to restaurants. 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. The Bureau of DPR suggested a landscape and lighting plan is required in these circumstances. But as noted above no exterior changes or construction of any sort is proposed and thus I do not believe it would be appropriate to impose such a requirement in this case.

THEREFORE, IT IS ORDERED, this 23rd day of **July, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to the Baltimore County Zoning Regulations (“BCZR”) to allow a total of 433 parking spaces in lieu of the required 668 parking spaces pursuant to the pre-May 26, 1988 zoning regulations, 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.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:sln