

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(6500-6516 Baltimore National Pike)		
1 st Election District	*	OF ADMINISTRATIVE
1 st Council District		
Pike Park Associates, LLLP &	*	HEARINGS FOR
Pike Park Venture, LLC		
<i>Legal Owners</i>	*	BALTIMORE COUNTY
Petitioners	*	CASE NO. 2019-0381-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Pike Park Associates, LLLP & Pike Park Venture, LLC, legal owners of the subject property (“Petitioners”). Petitioners are requesting variance relief from Sections 409.6.A.2, 409.8.A.3, 409.8.A.4, 409.4.C and 409.3 of the Baltimore County Zoning Regulations (“BCZR”) as follows: (1) to allow a total of 673 off-street parking spaces in lieu of the required 781 parking spaces; (2) to allow light standards in the parking facility without curbing or landscaping; (3) to allow parking spaces in a surface parking facility to remain as close as 1 ft. from the right-of-way line of a public street in lieu of the required 10 ft.; (4) to permit existing one way aisle width of 13 ft. in lieu of the required 14 ft. (for 0 degree parking angle) and two way aisle width of 17 ft. in lieu of the required 20 ft. (for 0 degree parking angle); and (5) to permit parking space dimensions of 7.5 ft. x 20 ft. in lieu of the required 7.5 ft. x 21 ft. for existing parallel parking spaces. A site plan was marked as Petitioners’ Exhibit 1.

Scott Cherry appeared in support of the petition. David H. Karceski, Esq. represented the Petitioners. 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 request, provided that the Petitioner met with the County Landscape Architect “to explore opportunities to provide landscaping approaching the requirements of the Baltimore County Landscape Manual.”

The site is approximately 10.6807 acres in size and is split-zoned BR-AS & BR.

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).

Regarding the first prong of the legal analysis, as explained by petitioner’s engineer, Valek Zarski, and by proffer of Mr. Karceski, the property is unique in a number of respects. Mr. Zarski’s resume was offered as Exhibit 2 and he was proffered and accepted as an expert in civil engineering.

First, as depicted on Exhibit 1, the site plan, the lot is a long rectangle that is bordered on three sides by public roads. As a result, numerous access points are required. Second, as the plan also depicts, there are “cut-outs” on both the southwest and southeast corners of the property occupied and owned by other businesses, the “Loafers” restaurant, and an automobile dealership and parking lot. Finally, there is a 20 foot difference in grade from the south side of the property up to the north side. As such, the property is unique.

Regarding the second prong of the analysis, Mr. Karceski explained several practical hardships arising out of the unique characteristics of the lot. He also explained the economic changes in the retail business over the last couple decades that impact the project. Because the property is bordered by public roads on three sides numerous access points are required, which

all consume square footage which could otherwise be devoted to parking spaces. The same is true of the “cutouts” on the property which are owned and occupied by other businesses. Further, Mr. Karceski explained that the petitioner is already committed to investing approximately \$25,000.00 in landscaping upgrades and that if he were required to bring the landscaping and curbing around all the light standards up to current code it would make the development project economically unviable. Mr. Cherry testified to this fact and explained that one of the principal tenants in the shopping center, which replaced the former Sports Authority, is a “Get Air” trampoline park which will cater mainly to children who are not yet of driving age, and who will be driven there in groups by a parent, thus easing any parking concerns. Mr. Zarski testified that he has been at the property on numerous occasions during peak times and that the 673 off-street parking spaces will be more than adequate to accommodate all the tenants in the shopping center and that there will be no impact on surrounding businesses.

Further, Mr. Zarski testified that he has met several times with Jim Hermann, the County Landscape Architect and that Mr. Hermann has tentatively agreed to the landscaping plans depicted on Exhibits 5 and 6. Mr. Zarski testified that he discussed with Mr. Hermann the fact that these landscaping improvements will bring the aesthetics of this property in line with or better than the surrounding developments in the area. Mr. Cherry and Mr. Karceski explained that unless all of the requested variances are granted the site plan will not be viable nor will the economics of the project in today’s market.

Finally, I find that the variance can be granted in harmony with the spirit and intent of the BCZR, and in such a manner as to grant relief without injury to the public health, safety and general welfare. Indeed, I find that the requested variance relief will enable the petitioner to bring viable new businesses to this older, established shopping center and that this will have a

positive impact on the surrounding businesses along this commercial thoroughfare.

THEREFORE, IT IS ORDERED, this 27th day of **September, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to the Baltimore County Zoning Regulations (“BCZR”) as follows: (1) to allow a total of 673 off-street parking spaces in lieu of the required 781 parking spaces; (2) to allow light standards in the parking facility without curbing or landscaping; (3) to allow parking spaces in a surface parking facility to remain as close as 1 ft. from the right-of-way line of a public street in lieu of the required 10 ft.; (4) to permit existing one way aisle width of 13 ft. in lieu of the required 14 ft. (for 0 degree parking angle) and two way aisle width of 17 ft. in lieu of the required 20 ft. (for 0 degree parking angle); and (5) to permit parking space dimensions of 7.5 ft. x 20 ft. in lieu of the required 7.5 ft. x 21 ft. for existing parallel parking spaces , be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Prior to issuance of permits Petitioner must submit for approval by Baltimore County final landscape plans for the site.
2. 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.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed _____
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:slh