

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(7020 Reisterstown Road) *	OFFICE OF
3 rd Election District	
2 nd Council District *	ADMINISTRATIVE HEARINGS
Yahrzeit Memorials Inc.	
<i>Legal Owner</i> *	FOR BALTIMORE COUNTY

Petitioner

Case No. 2020-0179-SPHA

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AMENDED ORDER ON MOTION FOR RECONSIDERATION

This matter comes before the Office of Administrative Hearings (“OAH”) for reconsideration of the Opinion and Order entered on the 13th of April, 2021 in the above-captioned case, which considered Petitions for Special Hearing and Variance filed on behalf of Yahrzeit Memorials, Inc. (“Petitioner”). The Special Hearing was filed under § 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve the setback from the northeast corner of the proposed addition to Reisterstown Road is a side yard, not a front yard, therefore no Variance is required. A Petition for Variance was filed to permit 7 parking spaces in lieu of the required 14 parking spaces. To permit a front yard setback of 16 ft. in lieu of the required 25.3 ft.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted.

Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”). They did not oppose the requested relief, subject to proposed conditions. As will be explained below, these conditions are no longer relevant.

Petitioner Steve Venick appeared in support of the requested relief. Drew Robinson and Arnold Jablon, Esq. represented the Petitioner. Brian Dietz of Dietz Surveying, Co. the engineer who prepared and sealed the site plan also appeared. John Gontrum, Esq. appeared on behalf of

Asheville Partners LLC, the owners of the adjacent Colonial Plaza Shopping Center. There were no protestants or interested persons in attendance. However, Mr. Robinson submitted e-mail correspondence between Mr. Venick and Ms. Kristin Zeminski of the Colonial Village Pikesville Community Association stating the association's support for the project. (Petitioner's Exhibit 11). Mr. Robinson also explained that after the original Petition was filed Mr. Gontrum entered his appearance and counsel requested a postponement of the hearing in order to attempt to negotiate a modification of the site plan. As a result of those negotiations the proposed office space addition was moved from the southeast corner of the lot to the northwest corner. The redlined site plan was admitted as Petitioner's Exhibit 9. Mr. Robinson further explained that based on this modification the petitioner no longer needs the special hearing or front yard setback relief. As a result, the only remaining relief sought at the hearing was the variance from BCZR Sec. 409.6 to allow 7 parking spaces in lieu of the required 14 spaces. Mr. Gontrum confirmed the accuracy of Mr. Robinson's proffer.

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).

As Mr. Robinson explained, the property is unique in several respects. It is approximately a third of an acre. It is an irregular triangular shape and is bordered by two public roads. The existing structure is a former gas station that is set in the far back of the site. The two access points on Reisterstown road eat up much of the potential area for parking spaces. Mr. Venick testified

that his family has operated Fram Monuments at this location for over 40 years. He explained that it is not a typical retail business in that most of their business is conducted on-line or over the phone. There are few “walk in” customers so the 7 existing parking spaces have proven to be more than adequate. He further explained that the proposed addition will simply expand the office space for the business and should not generate any additional need for parking. Finally, Mr. Venick noted that he owns the adjoining properties on Colonial Road that will back to the proposed office addition.

I therefore find that the subject property is unique and that if the parking variance is denied the petitioner would suffer practical difficulty and hardship because they would be unable to construct the office space they need. I further find that the variance relief is within the spirit and intent of the BCZR and that it will not harm the public health, safety, and welfare. This finding is buttressed by the lack of community opposition or any county agency opposition.

THEREFORE, IT IS ORDERED this **26th** day of **April 2021**, by this Administrative Law Judge, that the Petition for Special Hearing under BCZR § 500.7 to confirm that the setback from the northeast corner of the proposed addition to Reisterstown Road is a side yard, not a front yard, and that therefore no Variance is required be and is hereby **DISMISSED WITHOUT PREJUDICE**, as MOOT; and,

IT IS FURTHER ORDERED that the variance to permit a front yard setback of 16 ft. in lieu of the required 23 ft. is hereby **DISMISSED WITHOUT PREJUDICE**, as MOOT; and,

IT IS FURTHER ORDERED that the variance from BCZR § 409.6 to permit 7 parking spaces in lieu of the required 14 parking spaces is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

- 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 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, Petitioner would be required to return the subject property to its original condition.

- Petitioner shall not plant any landscaping, or allow any existing landscaping to grow above the existing fence between Petitioner's and Asheville Partner's adjoining property.

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



PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM/dlm