

IN RE: **PETITION FOR VARIANCE**

(8601 Belair Road)  
11<sup>th</sup> election District  
5<sup>th</sup> Council District  
AZ Nottingham, LLC

*Legal Owner*

**Petitioner**

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BEFORE THE  
OFFICE OF  
ADMINISTRATIVE HEARINGS  
FOR BALTIMORE COUNTY

**Case No. 2020-0186-A**

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**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Variance filed on behalf of AZ Nottingham, LLC, Legal Owner (“Petitioner”). The Variance was filed to approve shared parking as part of a modified parking plan pursuant to Baltimore County Zoning Regulations (“BCZR”) § 409.6.A.2 to permit 27 parking spaces in lieu of the required 30 parking spaces for 6,000 sq. ft. auto parts store. For such other relief as the nature of this cause may require.

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. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and Bureau of Development Plans Review (“DPR”). They did not oppose the requested relief subject to proposed conditions, which will be incorporated into the Order.

Petitioner Jay Lustig, appeared in support of the requested relief. Timothy Kotroco, Esq., represented the Petitioner. Charles Mitchell of RK & K the engineer who prepared and sealed the site plan also appeared. Several neighboring property owners also attended the hearing and

voiced concerns about potential traffic impacts from the proposed AutoZone store, and about the aesthetics of the proposed structure.

The property is approximately 39,647 sq. ft. and is zoned BLR. The engineer, Mr. Mitchell explained that the lot has fairly steep topography and that the State Highway Administration (SHA) has a right of way that pinches the site and impacts the number of possible parking spaces. He also testified that the parking area is impacted by the extra wide driveway needed to accommodate the tractor-trailer delivery trucks' turning radius into the site from Necker Avenue. This will be the sole ingress-egress point for the store because the SHA was opposed to access from Belair Road due to traffic safety concerns.

#### 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 explained above, the property is unique in several respects, and these unique features necessitate the requested variance. Further, the petitioner would experience practical difficulty and hardship if the variance were denied because they would be unable to meet the parking requirements. I find that the variance can be granted within the spirit and intent of the BCZR and without causing harm to the public health, safety, or welfare. Specifically, I do not believe this minor variance of three less parking spaces will have any negative impact on the surrounding neighborhood, and that is the only issue before me. I understand the neighbors' concerns about potential traffic impacts but that issue is unrelated to the variance request and is beyond the scope

of this case. As discussed at the hearing, traffic calming measures may be appropriate on Necker Avenue but those concerns must be discussed with the Councilman.

THEREFORE, IT IS ORDERED this 7<sup>th</sup> day of **December, 2020**, by this Administrative Law Judge, that the Petition for Variance from the Baltimore County Zoning Regulations (“BCZR”) § 409.6.A.2 to permit 27 parking spaces in lieu of the required 30 parking spaces for 6,000 sq. ft. auto parts store and for such other relief as the nature of this cause may require 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 must comply with the DOP and DEPS ZAC comments, copies of which are attached hereto and make a part thereof.

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

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

PMM/dlm