

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(1951-1955 East Joppa Road)	*	OFFICE OF
9th Election District		
5 <sup>th</sup> Council District	*	ADMINISTRATIVE HEARINGS
Shopping Center Associates d/b/a		
Pennsylvania Shopping Center Associates	*	FOR BALTIMORE COUNTY
Limited Partnership		
<i>Legal Owner</i>	*	
<b>Petitioner</b>	*	<b>Case No. 2021-0047-SPHA</b>
* * * * *		

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Variance filed on behalf of Shopping Center Associates d/b/a Pennsylvania Shopping Center Associates Limited Partnership, Petitioner. The Special Hearing was filed pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 500.7 to amend the Order and site plan approved in Zoning Case No. 2003-0573-SPHA. In addition, variance relief was requested from BCZR § 409.6.A.2 to allow a total of 1,640 off-street surface parking spaces in lieu of the required 2,203 parking spaces.

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 Environmental Protection and Sustainability (“DEPS”), and the Department of Planning (“DOP”). These agencies did not oppose the requested relief.

Geoff Sharpe, the Vice President of Federal Realty Investment Trust, the property owner, appeared in support of the Petition. Brandon Rowe, the engineer who prepared the site plan, also attended, as did Chris Kabatt, a professional engineer and traffic expert. They were accepted as

experts in their fields. David Karceski, Esquire and Kaitlin Peach, Esquire represented the Petitioner.

Because there was no opposition at the hearing Mr. Karceski was allowed to proffer the testimony supporting the requested relief. He explained the zoning history at the site and then described the relief sought in some detail. The property is approximately 15.82 and 13.41 acres and is zoned BL-CCC, BL. Mr. Karceski explained that the Home Depot Garden Center operations now occupies a substantial number of the existing parking spaces that were approved in Case No. 2003-573-SPHA. He further explained that there is still excess parking capacity based on the day to day shopping center operations. Mr. Kabatt then explained the parking study that he performed at the site. He identified Petitioner's Exhibit 7 as the findings that he reached by using the methodologies prescribed by the 5<sup>th</sup> Edition of the International Traffic Engineers ("ITE") Manual. Specifically, he explained that Saturdays between noon and 2 p.m. are when peak parking demand occurs, and that during those hours the anticipated parking demand at Perring Plaza is 1,414 parking places, and that the site plan provides 1,640 spaces, for a surplus of 227 spaces.

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 site is unique for a variety of reasons, as was recognized in Case No. 2012-284-A. It is an irregular "amoeba" like shape and has significant grade changes. Further, it is bounded on three sides by public streets. The Petitioner would suffer practical difficulty and hardship if the parking variance were denied because they would be unable to proceed with their project. Mr.

Karceski explained that there is no available land in the vicinity on which they could construct the required number of parking spaces.

I find that the requested relief is within the spirit and intent of the BCZR and that it will not harm the public health, safety or welfare. Based on Mr. Kabatt's study there will be excess parking capacity even during peak hours. In addition, this parking proposal is part of a \$5,000,000.00 investment that Mr. Sharp's company is making to substantially modernize and beautify the Perring Plaza shopping center. These upgrades will enhance and revitalize this county neighborhood.

THEREFORE, IT IS ORDERED this 15<sup>th</sup> day of **June 2021**, by this Administrative Law Judge that the Petition for Special Hearing from BCZR § 500.7 to amend the Order and site plan approved in Zoning Case No. 2003-0573-SPHA is hereby **GRANTED**.

IT IS FURTHER ORDERED that the Variance from BCZR § 409.6.A.2 to allow a total of 1,640 off-street surface parking spaces in lieu of the required 2,203 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.

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/dlm