

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(10240 a/k/a 10210 Mill Run Circle)	*	OFFICE OF ADMINISTRATIVE
4th Election District	*	HEARINGS FOR
4th Council District	*	BALTIMORE COUNTY
Owings Mills Mall, LLC	*	
<i>Legal Owner</i>	*	
	*	CASE NO. 2020-0144-A
Petitioner	*	
	*	
* * * * *		

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by Owings Mills Mall LLC for property located at 10240 a/k/a 10210 Mill Run Circle. The Petitioner is requesting variance relief from § 421.2 of the Baltimore County Zoning Regulations (“BCZR”) to permit a pet shop (as defined in BCZR § 101) to be located zero (0) ft. from a lease line in lieu of the minimum required 200 ft., and from BCZR § 421.2 to permit a pet shop and associated parts thereof (including parking) to be located as close as zero (0) ft. from an internal lot line in lieu of the minimum required 200 ft. For such other and further relief as may be deemed necessary by the Administrative Law Judge (“ALJ”).

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 Petitioner’s Exhibit 1.

Substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”). They did not oppose the requested relief.

Gregory Reed is the Vice President of Kimko Reality Corporation, owner of the site appeared at the hearing. Lawrence E. Schmidt, Esq. represented the Petitioner. Michael Gesell

from Bohler Engineer prepared the site plan and appeared on their behalf. There were no protestants in attendance.

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 described above, the site is unique for a variety of reasons. This site is known as Owings Mills Station and is a large shopping complex anchored by a Lowe's and a Costco across is a large parking lot from these store, where Petitioner has constructed a strip center. One of the stores in the strip center is a "PetSmart", part of a national chain. The store is permitted as of right in the zone, but is part of the strip center which consists of separate parcels sharing common walls with its neighbor, and cannot, by its position and construction, be located 200 feet from a lease line. As to the second variance requested, the considerable parking on the site is open to and shared by all twelve (12) parcels on the site.

It should be noted that evidence was provided that a specific "dog park" area with significant signage will be provided near the PetSmart. Nevertheless, the DOP comment and requirements will be included in this Order.

Finally, if these variances are not granted the Petitioner would suffer practical difficulty in that, although permitted, he would not be able to carry out the business permitted on the site.

THEREFORE, IT IS ORDERED, this **22nd** day of **October 2020**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR § 421.2 to permit a pet shop (as defined in BCZR § 101) to be located zero (0) ft. from a lease line in lieu of

the minimum required 200 ft. and from BCZR § 421.2 to permit a pet shop and associated parts thereof (including parking) to be located as close as zero (0) ft. from an internal lot line in lieu of the minimum required 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 requirements set forth in the DOP comment, which is attached hereto and incorporated.

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

Signed
LAWRENCE M. STAHL
Administrative Law Judge for
Baltimore County

LMS/dlm