

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(1730 York Road)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
Wells Fargo Bank, N.A.	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner	*	CASE NO. 2020-0074-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Wells Fargo Bank, N.A., legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from § 409.6.A.2 of the Baltimore County Zoning Regulations (“BCZR”) to allow a total of 12 off-street parking spaces for a standard restaurant and commercial use of the basement in lieu of the required 57 parking spaces and 6-off street parking spaces in lieu of the required 26 parking spaces for commercial uses other than a standard restaurant, as depicted on the alternative site plans filed in the case. In addition Petitioner seeks a variance from BCZR § 409.8.A.4 to allow parking spaces in a surface parking facility as close as 8 ft. to the right-of-way line of a public street in lieu of the required 10 ft. Site plans were marked and admitted as Petitioner’s Exhibit 1A and 1B.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The contract purchaser, Michael Albo, of the local development firm Maryland Financial Investors, appeared in support of the Petition. Josh Sharon, P.E., the engineer who prepared the site plans, also attended the hearing. Based on his credentials and experience he was accepted as an expert in land development, engineering, and the BCZR. David Karceski, Esq. appeared and represented the Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. Zoning Advisory

Committee (“ZAC”) comments were received from the Department of Environmental Protection and Sustainability (“DEPS”) and from the Department of Planning (“DOP”). Neither agency opposed the requested relief.

The site is approximately .62 acres in size and zoned BL-CCC. Mr. Karceski explained that the structure on the site previously housed a bank. The site has been vacant for approximately four years. The contract purchaser, Maryland Financial Investors, own numerous other properties along the York Road corridor and elsewhere in the County. They are committed to revitalizing the property and securing appropriate tenants. Mr. Karceski explained that they have filed alternative site plans because they are not yet sure what type of business or businesses will be moving in.

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. Karceski explained, the site in question is unique in several ways. First, it is irregularly shaped and has numerous “pinch points” that limit the number of feasible parking spaces. In addition, the existing building is sited closer to York Road than most others in the vicinity. It is therefore unique. Petitioner and the contract purchaser will experience practical difficulty and hardship if the variance relief is denied because they will be unable to redevelop the property. Based on the record evidence I find that the requested relief can be granted within the spirit and intent of the BCZR and without causing harm to the public health, safety and welfare. The testimony and exhibits establish that there is more than adequate parking in the surrounding shopping center parking lots, and there is an easement in favor of the Petitioner which allows them to use these lots. In my view the revitalization of this now vacant business will be a benefit to the

public.

THEREFORE, IT IS ORDERED, this 4th day of **September, 2020**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance from the BCZR pursuant to § 409.6.A.2 to allow a total of 12 off-street parking spaces for a standard restaurant and commercial use of the basement in lieu of the required 57 parking spaces; and, alternatively, to allow 6-off street parking spaces in lieu of the required 26 parking spaces for commercial uses other than a standard restaurant, as listed on the site plans filed in the case; and to allow parking spaces in a surface parking facility 8 ft. from the right-of-way line of a public street in lieu of the required 10 ft. be and 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 his 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.
- Prior to the issuance of permits Petitioner must comply with paragraph 2 of the ZAC comments submitted by DOP, a copy of which is attached hereto and made a part hereof.¹

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

¹ This opinion and Order takes no position on the DEPS comments concerning the need for a Development Review Committee meeting to determine plan process prior to the issuance of grading or construction permits.