

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(9613 Harford Road)		
11 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
5 <sup>th</sup> Council District		
Carney Village LTD Partnership	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2020-0101-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Carney Village LTD Partnership, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) § 409.6 to allow a total of 244 off-street parking spaces in lieu of the required 337 parking spaces; BCZR § 409.8.A.4 to allow existing parking spaces in a surface parking facility as close as 3 ft. from the right-of-way line of a public street in lieu of the required 10 ft.; BCZR § 409.8.A.3 to allow light standards in a surface parking facility without curbing or landscaping; and for any relief necessary from strict compliance with the Baltimore County Landscape Manual.

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”) comments were received from the Department of Planning (“DOP”) and the Bureau of Development Plans Review (“DPR”). They did not oppose the requested relief, subject to proposed conditions.

Blake Dickinson appeared as a representative of the Petitioner. Chris Armstrong, from

Bohler Engineering, the engineer who prepared the site plan, also appeared. Based on his credentials and experience he was accepted as an expert in land development, engineering, and the BCZR. David H. Karceski, Esq. appeared and represented the Petitioner. There were no protestants or interested citizens in attendance.

The site is approximately 5.405 acres in size and zoned BL-AS, BL, RO. Mr. Karceski explained that there are no proposed changes to the existing shopping center and parking field. He further explained that Petitioner has recently done extensive upgrading of the buildings and landscaping throughout the site. *See*, Petitioner's Exhibits 4A and 4B (pre and post renovation photos). He noted that the existing parking capacity and layout was in conformance with the BCZR when the shopping center was built in the seventies. Mr. Armstrong explained that he has had continuing discussions with Jim Herrman in the DPR concerning the landscape plan for the site and acknowledged that DPR will have final approval of the plan. He testified that the SHA is acquiring a substantial portion of the Harford Road frontage and is installing substantial landscaping improvements as part of storm water and other improvements they are making. These SHA landscaping plans were admitted as Petitioner's Exhibit 9. Mr. Karceski noted that Petitioner's revitalization of the shopping center furthers the goals of the Carney, Cub Hill, Parkville Community Plan and this was acknowledged by the DOP. Mr. Dickinson testified that the Petitioner owns and/or manages approximately 5,000,000 square feet of commercial real estate in Baltimore County and that in his experience there is more than adequate parking at this site to accommodate the anticipated retail uses.

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 with frontage on several public roads. Further, there are numerous “pinch points” at the site which limit the amount of parking spaces and landscaping that can be accommodated and there is no available adjoining property that could be purchased for these purposes. There is also a significant grade change from the front to the rear of the property.

Petitioner would suffer hardship and practical difficulty because they would be unable to lease and operate the vacant properties within the shopping center, and they have already made substantial investments and improvements there.

THEREFORE, IT IS ORDERED, this **22<sup>nd</sup>** day of **September, 2020**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance from Baltimore County Zoning Regulations pursuant to § 409.6 to allow a total of 244 off-street parking spaces in lieu of the required 337 parking spaces and per § 409.8.A.4 to allow existing parking spaces in a surface parking facility as close as 3 ft. from the right-of-way line of a public street in lieu of the required 10 ft. and per § 409.8.A.3 to allow light standards in a surface parking facility without curbing or landscaping, and for any necessary modifications of the BCLM 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.
- The Baltimore County Landscape Architect will have final approval of the landscape plan.

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