

IN RE: PETITION FOR VARIANCE
(10744 York Road)
8th Election District
3rd Council District
10742 York Rd, LLC

Legal Owner

Petitioner

* * * * *

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS OF
* BALTIMORE COUNTY
* **CASE NO: 2021-0145-A**

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by 10742 York Road, LLC (the “Petitioner”) for property located at 10744 York Road, Cockeysville (the “Property”). The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”): (1) §409.A to allow two way traffic in an existing driveway with a width of 15 ft. in lieu of the required 20 ft. minimum; (2) from §409.6.A.2 to allow 6 parking spaces in lieu of the required 9 (sic 11) spaces; (3) from §409.8.A.4 to permit parking spaces with a 0 ft. setback in lieu of the required 10 ft. from a public right of way; and (4) from §409.8.A.5 to allow a dead end parking drive.

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. Matthew E. Solel, a member of the Petitioner, appeared in support of the Petition along with Patrick “Rick” Richardson, PE of Richardson Engineering who prepared and sealed a site plan (the “Site Plan”). (Pet. Ex. 1). Neil Lanzi, Esquire represented at the Petitioner at the hearing. There were no Protestants or interested citizens that appeared at the hearing.

Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and Department of Environmental Protection and Sustainability (“DEPS”)

which agencies did not oppose the requested relief.

The Property is approximately .19 acres +/- (8,342 sf.) and is zoned Business-Local, Automotive Services (BL-AS). It is a corner lot at the intersection of York Rd. and McCann Avenue. It is improved with a 2-story existing building constructed in 1952 which faces York Rd. with a paved parking lot in the rear. Two (2) additional paved parking space are located on the north side of the building. Mr. Solel testified that he is a member of 518 Contracting, LLC which provides residential construction services. He testified that the Petitioner purchased the Property for office space as well as a showroom where customers can review contracts and building materials. Using photographs of the Property, Mr. Solel explained that the building has previously been used as a consignment shop. (Pet. Exs. 2, 3).

Mr. Solel proposes to renovate the first floor for a customer service area and to use the second floor for office space. There will not be any change to the footprint of the building. Elevations of the proposed renovations were helpful and show an upgraded building façade. He testified that at most the Property would have 5-6 people per day which includes his employees. He estimates that 3 times per week, customers may come to the showroom. The business hours for 516 Contracting, LLC is Mon-Sat but Mr. Solel may also work in the office on Sundays. He confirmed that the 6 parking spaces which currently exist are adequate for the needs of his business. He added that the consignment shop would need more parking spaces than his business.

Mr. Richardson was accepted as an expert in civil engineering. He testified that the Petition should be corrected to reflect that the required number of parking spaces for this use is 9 spaces, not 11. The consignment shop was required to have 13 spaces but no zoning history was found for the Property. Each of the variances requested is to approve existing spaces and setbacks. The driveway is on the northern side of the building, accessed via York Rd., is 15 ft. wide, and is

adjacent to the two (2) parallel parking spaces. Those parking spaces sit on the edge of McCann Avenue and therefore are not able to be located 10 ft. from that public right of way as required. As for the four (4) spaces in the rear, those spaces are angled parking and as such, Mr. Richardson verified that there is sufficient space to backup vehicles on both of the end parking spaces.

Mr. Richardson opined that the Property is unique given it was built prior to the enactment of the BCZR. The building is peculiar as it has been added onto over the years which reduces the available parking area and the width of the drive aisle. Mr. Richardson added that any business on this Property will need zoning relief. Accordingly, he opined that the Petitioner would suffer a practical difficulty and unreasonable hardship if it had to satisfy the current BCZR. He also stated that the renovations are in keeping with the other small businesses in this area.

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 Property is unique due its shape as reflected on the Site Plan. (Pet Ex. 1). The building is already improved with multiple additions which take away from the available parking area. The fact that the driveway is a dead end parking drive aisle and has with sufficient room for the vehicles in the end spaces to back up, satisfies BCZR, §409.8.A.5. The limited number of people coming to the Property at a given time supports the argument that the Property has adequate parking for this use. I find that the Petitioner would suffer a practical difficulty and unreasonable hardship if the requested variance relief was not granted because this commercial building could not be renovated and used by any business. I also find that the requested variance relief can be granted

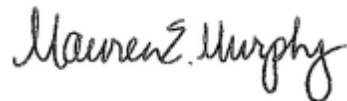
in strict harmony with the spirit and intent of the BCZR and without injury to the health, safety or general welfare, particularly in light of the lack of opposition.

THEREFORE, IT IS ORDERED, this **21st** day of **July 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR: (1) §409.A to allow two way traffic in an existing driveway with a width of 15 ft. in lieu of the required 20 ft. minimum; (2) from §409.6.A.2 to allow 6 parking spaces in lieu of the required 9 spaces; (3) from §409.8.A.4 to permit parking spaces with a 0 ft. setback in lieu of the required 10 ft. from a public right of way; and (4) from §409.8.A.5 to allow a dead end parking drive be, and they are hereby **GRANTED**.

The relief granted herein shall be subject to the following:

1. 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.



MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM/dlm