

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
N/Side Slade Avenue, 915' W of c/line of		
Reisterstown Road (Md. Rte. 140)	*	ZONING COMMISSIONER
(125 Slade Avenue)		
3 rd Election District	*	OF
2 nd Council District		
	*	BALTIMORE COUNTY
Mindful, LLC		
Petitioner	*	Case No. 2010-0141-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by Thuylan Nguyen, managing member of the property owner, Mindful, LLC, by and through their attorney, Deborah C. Dopkin, Esquire. The Petitioner requests variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: **(1)** Section 205.4.A and 206.4.C.2, to permit building setbacks from a street line of 20 feet and 30 feet, respectively, in lieu of the required 35 feet; **(2)** Section 409.8A.4 to permit parking in a surface parking facility for a nonresidential use within 3 feet of the right-of-way line of a public street in lieu of 10 feet required; **(3)** Sections 409.8.A.1 and Condition B.1.a and B.1.b of the Baltimore County Landscape Manual to permit no screening of a parking lot adjacent to a public right-of-way and no six-foot landscape strip adjacent to commercial properties; **(4)** Section 409.3 to permit off-street parking spaces 8 ½ x 16 feet in lieu of the 8 ½ x 18 feet required; **(5)** Section 450.4.F to permit two (2) freestanding enterprise signs per frontage in an OR-1 zone, in lieu of one (1) sign per frontage permitted; and for such other and further relief as may be consistent with the requirements of the Design Review Panel, and as may be deemed necessary by the undersigned Zoning Commissioner. The property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the requests were Thuylan “Lani” Nguyen, on behalf of the Petitioner, and Richard E. Matz, P.E., with Colbert Matz Rosenfelt, Inc., the consultant who prepared the site plan for this property. The Petitioner was represented by Deborah C. Dopkin, Esquire. There were no Protestants or other interested persons in attendance and it should be noted that there were no adverse Zoning Advisory Committee (ZAC) comments received from any of the County reviewing agencies.

The Petitioner’s counsel, Ms. Dopkin, offered Richard E. Matz, a registered professional engineer, who was accepted as an expert and had him introduce the site plan. Testimony and evidence offered revealed that the subject property consists of one parcel of 16,461 square feet or 0.378 acres, more or less, forming an irregularly shaped triangular lot with three (3) road frontages: on the south side of Slade Avenue, the north side of Milford Mill Road, and the west side of the realignment of Slade Avenue, in Pikesville. The property is zoned OR-1 and is currently improved with a well maintained brick and siding two-story commercial building, originally a residence, that has existed at this location for over one hundred years. Though currently unoccupied, the building was most recently occupied by a dental office for which there are three (3) existing signs, which Petitioner proposes re-facing and replacing at the existing locations. The property is served by public utilities and transportation. The nearest intersection, Reisterstown Road and Slade Avenue, is signalized

Further testimony disclosed that the property is located in the Pikesville Revitalization Area and thus subject to the requirements of the Pikesville Commercial Revitalization Guidelines. Moreover, the property’s improvements are subject to review by the Design Review Panel (DRP). The DRP reviewed and approved the proposed construction of a one-story addition for general offices on November 9, 2009, as reflected in that panel’s minutes

(Petitioner's Exhibit 6), dated November 16, 2009, noting that the plan is consistent with the requirements of the Pikesville Commercial Revitalization guidelines, subject to the DRP recommendations. It is important to note that this Hearing Officer is bound by the recommendations and design approvals of the DRP.

Prior to introducing the proposed architectural details and explaining the requested variance relief, Mr. Matz indicated that since these variance requests are in part driven by the property's location in the Pikesville Revitalization Area, it was important to understand the nature of this stretch of Slade Avenue/Milford Mill Road. Photo exhibits submitted into evidence as Petitioner's Exhibit 5 A through I depict the surrounding office and commercial uses on both roads. The aerial photo exhibits submitted as Petitioner's Exhibits 2 and 3 further show the uses surrounding the subject property.

The Petitioner proposes to build a small one-story addition of 1,108 square feet to accommodate office use in anticipation of the expansion of Petitioner's State Farm insurance agency. The Petitioner intends to occupy the building for her agency and not lease space to any other users. No medical offices will occupy the building. Mr. Matz stated that the site design and improvements are based on the Pikesville Revitalization Guidelines and the recommendations of the Design Review Panel. These guidelines and recommendations included:

1. Provide detailed sections of the building and proposed addition at grade level;
2. Provide sidewalk/pedestrian access to Slade Avenue adjacent to the travel aisle;
3. Provide concrete slab/stone outside of storage area at rear of building;
4. Revise the location of the addition to line up with the Slade Avenue side of building (Project out 2' instead of the proposed 3.5');
5. Provide calculations of amenity open space and show on landscape and site plans;

6. Revise the parking area- Reduce the size of the island on Slade Avenue side and add more to the Milford Mill side to allow for more queuing space. Also re-stripe the parking lot and show all changes on all plans;
7. Revise the landscape plan to show specifications and plant materials for existing and proposed plantings. (Limb up the existing white pines, and assess the condition of all existing trees and shrubs);
8. Provide sign details – The panel supports 3 signs on the site but they must be compatible in scale, size and materials with the Pikesville Design Guidelines and the Baltimore County Zoning Regulations;
9. Revise elevations – Show the correct window and shutter size and type (dimension existing and proposed), rear detail articulation (doors and stairwell), as well as siding style, lap detailing and trim size, and
10. Coordinate all plans.

Mr. Matz pointed out on Petitioner's Exhibits 1 (site plan), 8 (landscape plan) and 9 (architectural schematic plans), that the DRP requirements had been incorporated as required. Mr. Matz opined that this plan meets the aforementioned standards by enhancing the commercial vitality of the community and helping to create an inviting urban environment. The modifications to the sidewalk enhance the walkability of the area as well. Mr. Matz further testified that a compatibility report was submitted and approved by the Office of Planning, which recommends approval of the petition, subject to the recommendations of the DRP.

Sign design, dimensions and specifications were submitted as Petitioner's Exhibit 12 and demonstrate compliance with DRP requirements. Mr. Matz noted that retaining the signs promotes traffic safety. He pointed out that the County created the need for multiple signs when the realignment of Milford Mill Road resulted in multiple frontages and points of ingress and egress to the site. From a traffic safety aspect, the site functions as having three (3) frontages. Retaining the signs maximizes traffic and pedestrian safety, enhances visibility to passing traffic of cars exiting the site and gives adequate forewarning to cars entering the site. Upon an

examination of the plan and aerial photographs, and the fact that functionally there are three (3) road frontages, under B.C.Z.R. Sections 450.8 and 500.6, I conclude that the need for three (3) signs is justified. As such, permitting three (3) signs on the site is consistent with B.C.Z.R. Section 450 and compliant with the DRP recommendations which are binding.

The Petitioner concluded by saying that the subject property's location and unusual road frontages, as well as being in a designated revitalization area render the property unique. It is due to this location that mandated compliance with the Pikesville Commercial Revitalization Guidelines and the recommendations of the DRP is necessary. The existence of the building at this location for over a century, as well as the road orientation of the subject property contributes to the property's uniqueness in a zoning sense. Moreover, if the requested relief is not granted and strict compliance with the zoning regulations is required, the Petitioner would suffer practical difficulty and unreasonable hardship in using the property for a permitted purpose.

Based upon testimony and evidence offered, I find that the Petitioner has satisfied the requirements of Section 307.1 of the B.C.Z.R., as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995), for relief to be granted. The property's location renders the property subject to the overriding mandates of the Pikesville Commercial Revitalization Guidelines and thereby unique. The property's corner site location and multiple road frontages, resulting from the County's realignment of Milford Mill Road, further constrains development. These special circumstances and conditions drive the need for variance relief. Strict application of the zoning regulations would result in practical difficulty for the Petitioner. I find that the requested relief can be granted without injury to the nearby community and that the proposed addition to the building will benefit the long-term goals for the revitalization of the Pikesville commercial area. This building was designed in accordance with requisite guidelines and was approved by the

DRP. As mentioned, this hearing officer is bound by the recommendations and decisions of the
DRP. By adding sidewalk and improving the property's ingress/egress, the building plan
embraces the goals of the Plan. Therefore, I find that the building addition as proposed will be a
benefit to the surrounding neighborhood and the economic development goals of Pikesville and
the County. Accordingly, the requested relief is considered as being within the spirit and intent
of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition
held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this
4th day of January 2010, that the Petition for Variance seeking relief from the Baltimore County
Zoning Regulations (B.C.Z.R.) as follows: **(1)** from Sections 205.4.A and 206.4.C.2, to permit
building setbacks from a street line of 20 feet and 30 feet, respectively, in lieu of 35 feet
required; **(2)** from Section 409.8A.4 to permit parking in a surface parking facility for a
nonresidential use within 3 feet of the right-of-way line of a public street in lieu of 10 feet
required; **(3)** from Sections 409.8.A.1 and Condition B.1.a and B.1.b of the Baltimore County
Landscape Manual to permit no screening of a parking lot adjacent to a public right-of-way and
no six-foot landscape strip adjacent to commercial properties; **(4)** from Section 409.3 to permit
off-street parking spaces 8 ½ x 16 feet in lieu of the 8 ½ x 18 feet required, and **(5)** from Section
450.4.F to permit two (2) freestanding enterprise signs per frontage in an OR-1 zone, in lieu of
one (1) sign per frontage permitted (for a total of three [3] signs), in accordance with Petitioner's
Exhibit(s) 1 (site plan), 8 (landscape plan), and 9 (architectural drawings), be and is hereby
GRANTED subject to the following:

- 1) The Petitioner may apply for its permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that

- 2) The plan shall be amended and the property improved to incorporate the conditions set forth in the minutes of the DRP, dated November 16, 2009.
- 3) When applying for any permits, the site plan and/or landscape plan filed must reference this case and set forth and address the restrictions of this Order.

____SIGNED_____
WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County