

IN RE: <b>PETITION FOR VARIANCE</b>	*	BEFORE THE
N/E Corner Owings Mills Boulevard and		
Cron dall Lane	*	ZONING COMMISSIONER
<b>(11299 Owings Mills Boulevard)</b>		
	*	OF
4 <sup>th</sup> Election District		
2 <sup>nd</sup> Council District	*	BALTIMORE COUNTY
Cron dall Corner Associates, LLC	*	
<i>Legal Owner/Petitioner</i>		<b>Case No. 2010-0247-A</b>

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the William S. Berman, Member, on behalf of the legal owner of the subject property, Cron dall Corner Associates, LLC, through its attorney, Robert A. Hoffman, Esquire, with Venable, LLP. Petitioner requests a variance, pursuant to Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit 205 parking spaces to be provided in lieu of the 257 parking spaces required. The subject property and the 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 were William S. Berman, Member of Cron dall Corner Associates, LLC, the property owner, Kenneth J. Colbert, P.E., with Colbert Matz Rosenfelt, Inc., the engineer who prepared the site plan for the property, and Patricia A. Malone, Esquire, attorney for Petitioner. There were no Protestants or other interested persons present.

Testimony and evidence revealed that the subject property is a 4.69 acre parcel zoned B.L. (Business, Local) and is improved with an approximately 40,000 square foot

commercial/office building with 205 associated parking spaces. The building contains a variety of commercial uses, including office, restaurant, and other small businesses. Within the building, a 3,000 square foot space has become available for lease, and Petitioner is seeking to attract a standard restaurant tenant for the space.

Under the Zoning Regulations, the parking requirement for a 3,000 square foot standard restaurant is 48 parking spaces (16 parking spaces per 1,000 square feet of gross floor area). B.C.Z.R. Section 409.6.A.2. Based on the existing tenant mix, adding this restaurant to the center would create a parking deficit under a strict application of B.C.Z.R. Section 409.6. For shopping centers with less than 100,000 square feet of gross leasable area, the Zoning Regulations require that each tenant be considered a separate use with the required number of parking spaces being calculated according to the particular type of tenant. B.C.Z.R. Section 409.6.A.2. A total of 257 parking spaces would be required and the center only has 205 parking spaces.

Petitioner, therefore, has requested variance relief pertaining to the required off-street parking for Crondall Corner and seeks approval for a total of 205 parking spaces in lieu of the required 257 spaces. No additional improvements or expansion to the center are proposed at this time. Rather, Petitioner is seeking this relief simply to provide flexibility in terms of attracting a new tenant for the available space.

In support of the requested relief, Petitioner presented William Berman, Member with Crondall Corner Associates, LLC, legal owner, and Senior Vice-President with Metropolitan Management Company, which manages the Crondall Corner property. Mr. Berman described the configuration of the building, the current occupancy of the center, and the proposed use of the available tenant space. As he explained, the building has tenant spaces on both sides of the

building, and parking is available on both sides of the building. The vacant tenant space in question is on the side of the building facing Owings Mills Boulevard and is located on the end of the center closest to Crondall Lane. The Owings Mills Boulevard side has the best visibility and, therefore, is better suited for retail or restaurant tenants. The opposite side of the building is better suited for office uses or tenants not as heavily reliant on having visibility from public roads.

Mr. Berman also described the current usage of the available parking spaces by the tenants and their customers and explained that many spaces go unused currently. Because his offices are located at Crondall Corner, he is in a position to observe usage of the parking lots on a daily basis. In his opinion, there would be a sufficient number of spaces even with the addition of the proposed restaurant in the building. His testimony is based on more than 20 years of experience in managing commercial space.

Next, Mr. Colbert, engineer, testified regarding the existing site conditions and use of the parking based on the requirements of the B.C.Z.R. Mr. Colbert testified that he is familiar with Crondall Corner both from personal experience of living in the immediate area and from prior appearances before the Zoning Commissioner on Petitioner's behalf. In preparing for his testimony, Mr. Colbert made several visits to the center at various points during the week and at different times during the day to assess parking usage. Based on his observations, the center has a sufficient number of parking spaces to serve its existing tenants and customers and to accommodate a proposed 3,000 square foot standard restaurant.

Mr. Colbert also testified that he was familiar with the requirements for granting variances contained in B.C.Z.R. Section 307. In developing his testimony, Mr. Colbert first introduced an aerial photo exhibit, which placed the property into context with the existing

neighborhood. *See* Petitioner's Exhibit 2. As he explained, the neighborhood is developed predominantly with industrial, flex space, or retail uses. Mr. Colbert then introduced several other exhibits to demonstrate the property's uniqueness and resulting physical constraints. *See* Petitioner's Exhibits 3, 4, 5, and 6. As Mr. Colbert explained, a strict application of the Zoning Regulations for parking would result in a practical difficulty for Petitioner due to the unique constraints of the site, including significant grade changes from one end of the site to the other and the existence on site of a stormwater management facility that serves additional properties.

Referring to Petitioner's Exhibit 6, he testified that there is no room on the property for expansion of the existing parking areas, and, from his observations, such expansion is unnecessary anyway. The existing parking spaces are not being fully utilized at the present time. Mr. Colbert visited the site several times over the span of two (2) weeks in order to assess parking usage at Crondall Corner. As he testified, at no time during his visits was the parking lot ever more than half full. In his opinion, there is sufficient available parking for the restaurant use. Regardless of actual usage numbers, without the requested relief, Petitioner would not be able adjust the tenant mix based on changing market conditions. Consequently, the available commercial space would remain vacant and have a potential negative impact on the owner and the remaining tenants.

Mr. Colbert likewise confirmed that the grant of the variance would not have an adverse impact on the surrounding properties or neighborhood. As evident from the aerial zoning map submitted as Petitioner's Exhibit 2, the center is an existing commercial center located along an established commercial corridor. In terms of access and parking, the property is fairly isolated from surrounding properties, and any negative impacts would be internal to the site. If it turns out there is an insufficient number of parking spaces, there is no danger of vehicles utilizing

neighboring parking lots because there are none located in close proximity. The result would be that customers would go elsewhere for the services offered here.

After consideration of the testimony and evidence presented, it is clear that Petitioner has met the standards set forth in B.C.Z.R. Section 307 and that the variance relief should be granted. Based on the unique features of the site, requiring Petitioner to adhere strictly to the requirements of the B.C.Z.R. in terms of parking would cause a practical difficulty. Finally, I find that no adverse impact will result if the requested relief is granted as evidenced by the testimony of Mr. Colbert and Mr. Berman. From their testimony, it is clear that the center actually utilizes less parking than is required by Baltimore County's parking regulations. I find that adequate parking will be provided and this proposal is consistent with the spirit and intent of the parking regulations. For these reasons, I am pursued to grant the Petition for Variance.

I note that the Zoning Advisory Committee (ZAC) comments were issued by certain reviewing County agencies and have been made a part of this case file. I note, in particular, that a comment was received from the Office of Planning, dated April 14, 2010, in which Planning recommended that Petitioner "enhance and update the existing landscaping on site to replace winter damaged/dead shrubs and trees." On this point, both Mr. Berman and Mr. Colbert testified that the landscaping on site recently had been inspected for any damage and trimmed or replaced as needed. Other routine maintenance was also done at that time.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 29<sup>th</sup> day of April 2010 that the Petition for Variance seeking relief from Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 205 parking spaces to be provided in

lieu of the 257 parking spaces required, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following:

1. The Petitioner may apply for its necessary permits and be granted same upon receipt of this Order; however, the Petitioner is hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

WJW:dlw

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