

**IN RE: PETITION FOR VARIANCE**  
**(7944 Honeygo Blvd.)**  
14<sup>th</sup> Election District  
6<sup>th</sup> Councilman District  
White Marsh Plaza Business Trust  
Petitioner

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BEFORE THE OFFICE  
OF ADMINISTRATIVE  
HEARINGS FOR  
BALTIMORE COUNTY  
**CASE NO. 2013-0206-A**

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**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by David H. Karceski, Esquire, on behalf of the legal owner of the subject property. The Petitioner is requesting Variance relief from Section 409.6 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow 387 off-street parking spaces in lieu of the required 475 parking spaces. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the requests were Mark Keeley, Brian Donley and Joseph Ucciferro . David H. Karceski, Esquire with Venable, LLP appeared and represented the Petitioner. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

The only substantive Zoning Advisory Committee (ZAC) comment was received from the Bureau of Development Plans Review (DPR) dated March 15, 2013, indicating that the variance, if granted, should be conditioned on the site being landscaped in accordance with the approved landscape plan.

Testimony and evidence revealed that the subject property is approximately 7.2 acres and is zoned BM-CT. The site is improved with a shopping center contiguous to, but not part of, the White Marsh Mall. Petitioner is seeking to lease space to new commercial tenants (including restaurants) and to do so requires variance relief.

Based upon the testimony and evidence presented, I will grant the request for variance relief. Under *Cromwell* and its progeny, to obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

*Trinity Assembly of God v. People's Counsel*, 407 Md. 53, 80 (2008).

Petitioner has met this test. The site is irregularly shaped (counsel describes it as elbow shaped) and the property is surrounded by roadways. Thus, it is unique.

If the B.C.Z.R. were strictly enforced, the Petitioner would indeed suffer a practical difficulty, given it would be unable to attract commercial tenants for its center. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This is demonstrated by the lack of county and/or community opposition. In addition, a parking study was completed by Traffic Concepts, Inc. (Exhibit 5) demonstrating that more than sufficient parking exists on site.

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

THEREFORE, IT IS ORDERED, this 29<sup>th</sup> day of April, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Section 409.6 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow 387 off-street parking spaces in

lieu of the required 475 parking spaces, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioner, consistent with the ZAC comment received from the Bureau of Development Plans Review dated March 15, 2013, shall meet with the County's landscape architect to determine and complete whatever plantings are necessary to bring the site into compliance with the existing, approved landscape plan.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

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Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:sln