

Case 2970

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY MARYLAND

APPLICANT: M. Maerk Ltd. Gary S. Teegardin
Nelson S. Zahler 1292 Fairway Drive
Suite 204 Westminster, Maryland 21157
186 Thomas Johnson Drive
Frederick, Maryland 21701

REQUEST: Variances to reduce the minimum required design standards and number of parking spaces for the planned business center; and, a variance to the minimum required front setback of 50 feet from Westminster Pike (Md. Rt. 140) for a temporary building to be in place during the months of May thru September in the Carroll Plaza Shopping Center.

LOCATION: Northwesterly corner of Westminster Pike and Englar Road intersection in Election District 7.

BASES: Article 14, Division I, Sections 14.1(b)1 and 2, and 14.1(a)23; Division VI, Section 14.63(b); Article 15, Section 15.5; Zoning Ordinance 1E.

HEARING HELD: June 30, 1988

FINDINGS

After submission December 16, 1966 with revisions through April 14, 1967, the site plan for the development of the existing shopping center was approved by the Carroll County Planning and Zoning Commission May 10, 1967. Since completion of the shopping center, numerous changes have occurred in both the floor plans and occupancy. Current plans for improvements involve closure of one of the driveway entrances on Englar Road, relocation of several other driveway entrances, revision of the vehicular traffic circulation pattern, resurfacing of the parking area, new striping the parking stalls, relocation of several light poles, and establishment of landscaping islands in the parking areas in front of the stores, and landscaping strips adjoining Englar Road and Westminster Pike.

From 1967 through 1980, the provisions of the zoning ordinance governing parking facilities were amended several times. In August of 1981, a comprehensive amend-

ment of the minimum parking requirements was enacted. Due to constraints of the site, the minimum number of 436 parking spaces required by current provisions can not be provided.

Two plans, identified as Scheme "A" and Scheme "B" have been submitted for reduction of the minimum required number of spaces to either 425 for Scheme "A" or 399 for Scheme "B". With Scheme "A," the length of certain parking stalls would be reduced from the requirement of 20 feet to 18 feet, and the width of certain aisles would be reduced from 25 feet to 24 feet. With Scheme "B," the minimum design standards specified in Section 14.1(b) of the zoning ordinance would be complied with, except for 56 spaces and the access aisle adjacent to the retaining wall extending parallel to Monroe Street. In Scheme "A," the reduction of 11 spaces equals approximately 2.5 percent. In Scheme "B," the reduction of 37 spaces equals a reduction of approximately 8.5 percent. The majority of the parking spaces and access aisles located in front of the shopping center in Scheme "A," would not comply with the minimum design standards. As shown on Scheme "B" the parking spaces and access aisles would comply with the minimum standards. These spaces and aisles, located in front of, and closest to, the center, are more intensely used by the public than other spaces and aisles to minimize walking to and from the businesses and offices.

Statements submitted by the applicants substantiate that the existing parking spaces have been sufficient in the past, even during special promotions or holidays. As noted earlier, many businesses have come and gone in the life of the shopping center. Presently, there is no evidence of any tenant, existing or prospective, that can be expected to generate an exceptional need for parking spaces. In fact, the future demand for parking may be less than in the past due to change in the characteristics of the center's offices and businesses.

In addition to the variance requests regarding the design standards and number of parking spaces for the shopping center, Mr. Teegardin, as tenant of the center requests reduction of the minimum required front setback of 50 feet to place a snowball stand adjacent to the frontage on Westminster Pike, yearly, May through September. Location of the stand, as proposed would further reduce the number of parking spaces proposed

in either scheme by 2 spaces to 423 spaces for Scheme "A" and 397 spaces for Scheme "B." The stand, which is approximately 8 feet in width by 10 feet in length, would occupy one space with the second space retained for customers' access. Mr. Teegardin indicated that sales usually result from impulse buying; locating the stand near the highway would promote sales because of its visibility to drivers and passengers in vehicles using Westminster Pike; and, that sales usually increased after 9:00 p.m. The minimum required setback of 50 feet would be reduced to about 30 feet using Scheme "A" and 10 feet using Scheme "B." The stand would not be stored on the premises during the off-season.

CONCLUSION

The design and aesthetic improvements to the shopping center will be beneficial in particular to vehicular traffic safety and to the public in general. Experience indicates that the parking spaces provided have more than satisfied past demands, and no evidence suggests probability of a significant increase in the demand for parking spaces in the future. In contrast, the future demand for parking spaces may actually diminish. Accordingly, the merits of relaxing the minimum dimensional standards in order to provide 26 additional parking spaces, as proposed by Scheme "A," are substantially less than if the demand exceeded the supply.

Therefore, the Board hereby authorizes reduction of the minimum number of required parking spaces, from 435 to 399 spaces, specifically as proposed and shown on the plan identified as Scheme "B."

In considering the request for reduction of the minimum required front setback of 50 feet to about 10 feet, from Westminster Pike as proposed in Scheme "B," the record reveals no evidence of practical difficulty and unreasonable hardship in locating the snowball stand within the shopping center in compliance with the minimum setback requirements of the zoning ordinance. It is apparent that the purpose of the request is to promote sales, and is essentially a matter of convenience solely to the applicant, Mr. Teegardin. In addition, there is the probability that locating the stand adjacent to the highway as proposed would at least tend to distract drivers' attention from traffic conditions of the two driveway entrances to

the adjoining fuel station and signalized intersection of Englar Road. Any such distraction would be hazardous. Under these circumstances, not only is there no justification for authorization, such authorization would be contrary to the purpose and intent of the zoning ordinance. Accordingly, the request for reduction of the minimum required front setback must be, and is hereby, denied. As no justification for further reduction of the minimum required parking spaces was introduced other than as an integral part of the reduction of the minimum required front setback, the additional reduction of the minimum required parking spaces to 397 spaces is hereby denied.

Attention is directed to the provisions of Article 10, Section 10.4(d) of the zoning ordinance regarding the required site plan.

July 28, 1988
Date

John Totura
John Totura, Chairman