

**IN RE: PETITION FOR VARIANCE**  
SW side of Falls Road, 35 feet SW  
of the c/l of Clarkview Road  
3<sup>rd</sup> Election District  
2<sup>nd</sup> Councilmanic District  
**(1407 Clarkview Road and  
6240, 6242 Falls Road)**

1407 Clarkview Road, LLC  
*Petitioner*

\* BEFORE THE  
\* OFFICE OF ADMINISTRATIVE  
\* HEARINGS  
\* FOR BALTIMORE COUNTY  
\* **CASE NO. 2011-0223-A**

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings for Baltimore County for consideration of a Petition for Variance filed by the legal owner of the subject property, 1407 Clarkview Road, LLC, by and through its attorney, Christopher D. Mudd, Esquire, with Venable LLP. Petitioner requests a variance from Section 409.7.B.1 of the Baltimore County Zoning Regulations (the “B.C.Z.R.” or “Zoning Regulations”) to permit off-site parking spaces to be located as close as 1,265 feet and as far as 2,615 feet walking distance from a building entrance in lieu of the maximum permitted 500 feet. The subject site and the requested relief are more particularly described on the two-sheet redlined site plan accepted into evidence and marked as Petitioner’s Exhibit 1A & 1B.

Appearing at the requisite public hearing in support of the Petition were Christopher D. Mudd, Esquire, attorney for the Petitioner; Lawrence Rief, on behalf of the Petitioner; Salvatore Crupi, P.E., with Matis Warfield, Inc., the engineer who prepared the site plan; and Glenn Cook, a traffic engineering consultant with The Traffic Group. A number of interested citizens also appeared, but none protested the requested relief, and only three – Kathy Palencar, Bruce Boswell, and Jeffrey Budnitz – testified during the hearing.

Testimony and evidence revealed that the subject property is comprised of three separate parcels, totaling approximately 1.05± acres, located at the intersection of Clarkview Road and Falls Road, in the Bare Hills area of Baltimore County. The property is split-zoned BM (Business, Major), BL (Business, Local), and DR2 (Density, Residential), and improved with an abandoned 8,000± square foot warehouse building, as well as an abandoned dwelling that is included on the Baltimore County Final Landmarks List. The property is also considered part of the Bare Hills Business Park, which is a large office park developed by Petitioner's parent company – Continental Realty Corporation – that is located along and served by Clarkview Road.

Photographs accepted into evidence as Petitioner's Exhibits 5A-H depict the poor condition of the subject property at the time Petitioner purchased it in 2007. As explained during the public hearing, this site marks the "gateway" into the Bare Hills Business Park, and Petitioner intends to redevelop it by re-facing the existing warehouse building and filling it with a number of commercial services for use by the numerous businesses within the Business Park, their employees, and the surrounding community. In fact, the Ruxton Riderwood Lake Roland Area Improvement Association ("RRLRAIA") recently updated its community plan, and the proposed improvements would help further the goals of that plan, as explained by a number of witnesses. Petitioner submitted elevations of the proposed improvements to the warehouse building (Petitioner's Exhibit 6) and a copy of a landscape plan approved by Baltimore County's landscape architect (Petitioner's Exhibit 7), which, when compared to the 2007 site photographs, confirm that the redevelopment will significantly improve the property.

Due to existing site constraints, Petitioner discovered that it could not provide on the subject property the number of off-street parking spaces required by the Parking Regulations contained in Section 409 of the B.C.Z.R. However, the subject property should not be viewed in isolation – there are a number of on-street parking spaces available along Clarkview Road, as well

as a surplus of off-street parking on other lots owned by Continental within the Business Park, which will, in combination with the proposed on-site parking layout, provide more than enough parking to serve the proposed commercial uses. Because the off-street parking spaces within the Business Park are more than 500 feet – some as close as 1265 feet and others as far as 2615 – from the customer entrances for the rehabilitated commercial building, the requested variance is necessary.

Petitioner's witnesses explained that the variance was critical to its redevelopment effort; without it, Petitioner would not have the ability to provide the mix of commercial services for use by the businesses and employees within the Business Park and the surrounding community. Furthermore, the witnesses opined that, from a practical perspective, the parking spaces provided on the subject property together with the parking spaces along Clarkview Road are sufficient for the redevelopment. Petitioner also indicated that, even though the existing parking would be more than adequate, it was working with Baltimore County to create additional parking spaces along Clarkview Road. Finally, the evidence demonstrated that Petitioner plans to install a sidewalk along the east side of Clarkview Road to provide a pedestrian connection between the subject property and the rest of the Business Park. This sidewalk will provide a safe walkway to and from the subject property for customers parking their vehicles along Clarkview or elsewhere in the Business Park, as well as for existing employees within the Business Park.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated February 28, 2011, which indicate that the Office supports the requested variance, subject to certain conditions. It was explained during the hearing that the redlined changes on Petitioner's Exhibits 1A and 1B – which show a slight reconfiguration of the parking lot layout to provide better protection for the landmarked structure on the site – resulted from meetings between Petitioner's representatives and

the Office of Planning prior to the issuance of the Office's comments. The comments indicate that the Office is satisfied with the redlined changes.

As mentioned above, three interested persons testified in favor of the requested variance. First, Ms. Palencar, appearing in her capacity as the Commercial Zoning Chair of the RRLRAIA, confirmed that the overall redevelopment of the subject property is within the spirit of the newly adopted update to the RRLRAIA community plan. She indicated that members of her group met with representatives of the Petitioner and came to an understanding that enabled the RRLRAIA to agree not to oppose the variance. Among other things, Petitioner agreed that a sign would be posted on its property at the new access point to be installed along Falls Road that indicates no left turns are permitted onto Falls Road, which I will make a condition to this Order. Next, Mr. Boswell testified and likewise recognized the hard work of the parties during the negotiations between the RRLRAIA and Petitioner, including the efforts to protect the landmark structure, which he appreciated, and he offered some input regarding the new access point proposed along Falls Road. Finally, Mr. Budnitz, the owner of an office building along Falls Road nearby the property, testified that Petitioner's proposed redevelopment represents the critical first step towards a much needed revitalization of this stretch of Falls Road. He praised Continental's efforts in developing the Bare Hills Business Park and offered his support for the requested relief, recognizing the importance of enabling Petitioner to transform the subject property from an abandoned warehouse into a high quality commercial building that would become the centerpiece for the Bare Hills area.

Considering all of the testimony and evidence presented, I am persuaded to grant the requested variance relief. I find special circumstances or conditions exist that are unique to the subject property. The property is the gateway to the Bare Hills Business Park, directly connected to the Business Park by virtue of Clarkview Road, which provides the only access into, and

terminates within, the Business Park. Additionally, there are existing site constraints that limit the amount of off-street parking that can be provided on the subject property, including its unique jagged pie shape, the readaptive use of an 8,000± square foot abandoned warehouse building and the need to work around and respect a structure on the Final Landmarks List, as well as the fact that portions of the property are zoned DR, which prohibits parking for commercial purposes without additional zoning relief.

Moreover, I find that, due to these unique conditions, strict enforcement of the B.C.Z.R.'s parking regulations would cause the Petitioner to suffer a practical difficulty, because it would not be able to redevelop the site and fill the 8,000± square foot building with the quality commercial services needed to redevelop it. Finally, I find that the variance request can be granted in harmony with the spirit and intent of the Zoning Regulations, and in such a manner as to grant relief without injury to the public health, safety, and general welfare. The purpose for the Parking Regulations contained in Section 409 of the B.C.Z.R. is to provide for adequate parking; here, there will be more than adequate parking for future tenants' employees and customers, and the installation of the sidewalk along Clarkview Road connecting the subject property to the rest of the Business Park will provide a safe path for pedestrians to walk to and from the site.

Thus, the variance requested meets the requirements of Section 307 of the B.C.Z.R., as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered, I find that Petitioner's variance request herein should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 22nd day of March, 2011, by this Administrative Law Judge that Petitioner's Variance that the Petition for Variance from Section 409.7.B.1 of the B.C.Z.R. to permit off-site parking spaces to

be located as close as 1265 feet and as far as 2615 feet walking distance from a building entrance, in lieu of the maximum permitted 500 feet, be and is hereby GRANTED, subject to the following:

1. Petitioner shall provide protective bollards and additional space around the Historic Landmark Structure.
2. A sidewalk shall be constructed along Clarkview Road between the subject property and the existing sidewalks within the Business Park.
3. Any facing materials proposed to be installed on the concrete retaining wall along Falls Road should be provided to the Office of Planning for review.
4. The dumpster serving the uses on the subject property shall be screened.
5. A sign shall be posted on Petitioner's property at the new access point on Falls Road indicating that no left turns onto Falls Road are permitted.
6. Petitioner shall obtain an entrance permit from the Maryland State Highway Administration prior to a use and occupancy permit.

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

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Signed  
LAWRENCE M. STAHL  
Managing Administrative Law Judge  
for Baltimore County

LMS/pz