

IN RE: **PETITION FOR VARIANCE**

E side of Falls Road; 98 feet N
of the c/l of Hillside Avenue
9th Election District
2nd Council District
(10501 Falls Road)

TVI Properties, LLC
Petitioner

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2012-0175-A**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for consideration of a Petition for Variance filed by TVI Properties, LLC, the legal property owner. The Petition seeks variance relief as follows:

- From Section 409.6.A.2 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit 180 parking spaces, in lieu of the required 312 spaces; and
- From Section 409.8.A.4 of the B.C.Z.R. to permit parking spaces to be as close as zero (0) feet to the right-of-way line of a public street in lieu of the required 10 feet.

The subject property and requested relief are more fully described 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 requested relief was Theodore W. Bauer, Managing Member, TVI Properties, LLC, Tony Frascarella, P.E. and Michael J. Pieranunzi, RLA, both with Century Engineering. Robert Hoffman, Esquire and Christopher Mudd, Esquire appeared as attorneys for the Petitioner. There were no Protestants or other persons in attendance, and the file does not contain any letters of opposition or protest.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The Department of Environmental Protection and Sustainability (DEPS)

indicated that any development on the property must comply with applicable forest conservation and water quality regulations. In addition, the Department of Planning made certain suggestions regarding streetscaping and lighting, both of which can be addressed prior to the issuance of any building permits for the project.

The subject property contains the Valley Inn Restaurant, which is a registered landmark. The property is located off of Falls Road, and contains approximately 5 ½ acres total, 1.6 acres of which contain physical improvements. The Petitioner bought the property last year, and indicated he wants to “restore the restaurant to its original glory,” and based on the proposed elevation drawings, it would appear the improvements would do just that. *See Exhibits 8 A-C.*

Petitioner indicated the Landmarks Preservation Commission approved the plans for the project, and the Valleys Planning Council also supports the requested variance relief. Exhibit 9.

Based on the evidence presented, I find that the variances can be granted in such a manner as to meet the requirements of Section 307 of the B.C.Z.R., as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995). I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Specifically, the 5 ½ acre lot is irregularly shaped, and the Petitioner must contend with existing site conditions in constructing the proposed improvements. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioner.

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 amply demonstrated by the support of the Valleys Planning Council and the lack of community opposition. In addition, in the unlikely event that parking was insufficient

for a particularly busy occasion (i.e., Mother's Day), Petitioner indicated he would use a shuttle bus to transport patrons to the restaurant.

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

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County this 7th day of March, 2012 that the Petition for Variance relief as follows:

- From Section 409.6.A.2 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit 180 parking spaces, in lieu of the required 312 spaces; and
- From Section 409.8.A.4 of the B.C.Z.R. to permit parking spaces to be as close as zero (0) feet to the right-of-way line of a public street in lieu of the required 10 feet,

be and is hereby GRANTED.

The relief granted herein is subject to the following condition:

1. Petitioner is advised that it may apply for any required building 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 the 30-day appeal period from the date of 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.

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/dlw