

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
SE corner of Providence Road and		
East Joppa Road	*	OFFICE OF ADMINISTRATIVE
9 th Election District		
5 th Council District	*	HEARINGS FOR
(701 East Joppa Road)		
	*	BALTIMORE COUNTY
Stanley Black & Decker, Inc.		
<i>Petitioner</i>	*	CASE NO. 2012-0195-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County for consideration of a Petition for Variance filed by Stanley Black & Decker, Inc. The Petitioner is requesting Variance relief under Section 409.6 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit the expansion of existing buildings by the construction of a 1,760 square foot lobby/conference room area, without requiring expansion of existing on-site parking (from present capacity of 752 spaces to 922 spaces as required under Code), the development of the site having pre-dated the current parking regulation; and for such other reasons as shall be presented at the hearing. 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 variance request were Robin Weyand with Stanley Black & Decker, and Phil Carroll, professional engineer with Whitney, Bailey, Cox & Magnani, LLC, the consulting firm that prepared the site plan. Lawrence F. Haislip, Esquire with Miles & Stockbridge, P.C., represented the Petitioner. There were no Protestants or other interested parties in attendance. The file reveals that the Petition was properly advertised and the site was properly posted as required by the B.C.Z.R. (*See* Exhibits 2 and 3), and the file does not contain any

letters of opposition or protest.

Testimony and evidence revealed that the subject property is approximately 22 acres in size, and is the “corporate campus” for the Black and Decker Manufacturing Company. The site contains approximately 295,000 square feet of office space in two buildings, and is attractively landscaped and encircled with a fence. The site is triangular in shape, and has only one point of ingress/egress for employees and visitors.

Petitioner’s engineer testified, via proffer, that the subject site has been in use by Petitioner for over 80 years (long pre-dating the B.C.Z.R.), and that the present parking is more than sufficient. Mr. Carroll opined that the property was indeed unique and unusual both in shape and size, and he advised that the campus contains many areas of protected landscaping and green space. Finally, Mr. Carroll opined that it would create a hardship if B.C.Z.R. § 409 was strictly enforced in this setting because the additional parking could potentially be more expensive than the modest construction project (which involves just 1,760 square feet), and would also result in a loss of green space on the premises.

Zoning Advisory Committee (ZAC) comments were received and are made a part of the record of this case. A ZAC comment was received from the Department of Environmental Protection and Sustainability (DEPS) dated March 14, 2012, indicating that the development of the property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code [B.C.C.]).

Based upon the testimony and evidence presented, I am persuaded to grant the request for variance relief. 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 property is oddly shaped and is also unique in that it is a large parcel of land in the center of a busy and crowded city. I also find

that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioners.

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).

The Petitioner has satisfied this test.

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 lack of any community opposition. In addition, the site is insular and there is no danger that parking would “spill over” to adjoining properties.

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

THEREFORE, IT IS ORDERED, this 27th day of March, 2012, by this Administrative Law Judge that Petitioner’s Variance request from Section 409.6 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit the expansion of existing buildings by the construction of a 1,760 square foot lobby/conference room area, without requiring expansion of existing on-site parking (from present capacity of 752 spaces to 922 spaces as required under Code), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioner may apply for its building permit and may be granted same upon receipt of this Order. However the Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the thirty (30) day

appellate process from this Order has expired. If for whatever reason this Order is reversed, the Petitioner will 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