

**IN RE: PETITION FOR VARIANCE**

SE side of Eastern Avenue; 155'  
SW of Seversky Court  
**(1609 Eastern Boulevard)**  
15<sup>th</sup> Election District  
7<sup>th</sup> Election District

Eastern Avenue 1609 LLC  
*Legal Owners*  
Essex Dog and Cat Hospital  
*Contract Purchaser*  
Petitioners

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BEFORE THE  
OFFICE OF ADMINISTRATIVE  
HEARINGS FOR  
BALTIMORE COUNTY  
  
**CASE NO. 2012-0084-A**

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**ORDER AND OPINION**

This matter comes before the Administrative Law Judge as a Petition for Variance filed by the legal owners of the property, Eastern Avenue 1609 LLC, and the contract purchaser, Essex Dog and Cat Hospital, Petitioners. The Petitioners are requesting Variance relief pursuant to Sections 409.6.A.2, 409.8.A.4, 232.3.B and 409.4.C of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit 29 parking spaces, a 5 foot setback from a parking space to a public street right-of-way line, a 5 foot setback from a lot (alley) in a residence zone and a 16 foot wide one-way aisle, all in lieu of the required 31 parking spaces, 10 feet, 20 feet and 22 feet respectively for an addition to an existing veterinarian’s office. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the requisite public hearing held for this case were Dr. Joseph Zulty on behalf of the Essex Dog and Cat Hospital, and David Billingsley with Central Drafting & Design, Inc., the professional land surveyor who prepared the site plan for the Petitioners. The file reveals that the Petition was properly advertised and the site was properly posted as required

by the Baltimore County Zoning Regulations. There were no Protestants or other interested persons in attendance at the hearing.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Planning on October 11, 2011, and indicate as follows:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. This department does not oppose the request subject to the review and approval of architectural elevations by this department prior to the issuance of any building permits.

Mr. Billingsley testified and described the subject property. It is .378 acres, is zoned BL-AS, and is improved by a two floor veterinary clinic with 4,000 square feet on each floor. The entire site is paved and is used exclusively by the practice. It is surrounded by commercial uses and a County park. The 20 foot setback from a lot in a residential zone was in fact reduced to 0 feet when the original construction took place in 1970. He further stated that the Petitioners wish to construct an extension of their existing building in order to relocate and expand their surgical facilities. He noted that no additional zoning relief is required for the construction of the extension. However, the additional construction results in a requirement of 31 parking spaces. The lot presently is 26 parking spaces and Petitioners are requesting approval for a total of 29 total spaces.

Utilizing Petitioners' Exhibit 1, (the plan to accompany the petition), Mr. Billingsley proposes that the additional parking spaces are to be placed on each end of the property, adjacent to the right-of-way line on Eastern Blvd.; all are within 5 feet of the Eastern Blvd. right-of-way line. The witness related that when the State of Maryland added curbs and gutters to this portion of Eastern Blvd., they altered the subject site by reducing its available setback from the center line. He opined that this taking by the State and its resultant available setback reduction has

added a unique characteristic to this property. Without the requested variances, Petitioners will be unable to construct the building extension as planned while still providing necessary and appropriate numbers of parking spaces.

Considering all of the testimony and evidence presented, I am persuaded to grant the requested relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Moreover, I find that strict enforcement of the B.C.Z.R. would cause the Petitioners to suffer practical difficulty and undue hardship. Therefore, I also find that the variances requested can be granted in strict harmony with the spirit and intent of the said regulations, and in such a manner as to grant relief without injury to the public, health, safety, and general welfare. In all manner and respect, the variances requested meet the requirements of Section 307 of the B.C.Z.R. as well as those requirements established in *Cromwell v. Ward*, 102 Md. App. 691 (1995) and *McLean v Soley*, 270 Md. 208 (1973).

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. 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.

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

THEREFORE, IT IS ORDERED, this   18   of November, 2011 by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Sections 409.6.A.2, 409.8.A.4, 232.3.B and 409.4.C of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit 29 parking spaces, a 5 foot setback from a parking space to a public street right-of-way line, a 5 foot setback from a lot (alley) in a residence zone and a 16 foot wide one-way aisle, all in lieu of the required 31 parking spaces, 10 feet, 20 feet and 22 feet respectively for an addition to an existing veterinarian's office, be and hereby is GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioners shall submit architectural elevations to the Department of Planning for review and approval prior to the issuance of any building permits.

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