

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(Peninsula Expressway)	*	OFFICE OF
12 th Election District		
7 th Councilmanic District	*	ADMINISTRATIVE HEARINGS
Cove Point Apartments Ltd. Partnership,		
Cove Point Apartments II Ltd. Partnership	*	FOR BALTIMORE COUNTY
Petitioners		
	*	Case No. 2013-0310-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed by Charles B. Marek, III on behalf of the Petitioners. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a modified parking plan in accordance with B.C.Z.R. §409.12. The Variance petition seeks relief from B.C.Z.R. §§ 409.8.A.4 and 409.8.A.1 as follows: (1) to permit a setback of zero (0) ft. to a street line in lieu of the required 10'; and (2) to permit screening and landscaping of zero (0) ft. in lieu of the 10' required. 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 public hearing in support of the requests was Todd Del Tufo and Fred Thompson. Charles B. Marek, III, Esquire represented the Petitioners. There were no Protestants or interested citizens in attendance, and the file does not contain any letters of opposition. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

The only Substantive comment was submitted by the Department of Environmental Protection and Sustainability (DEPS), indicating that the property is located within an Intensely

Developed Area (IDA) of the Chesapeake Bay Critical Area (CBCA) and must comply with CBCA regulations.

The subject property is 14.077 acres in size and is zoned BLR and OR2. The Petitioners operate a senior housing facility at this location, which opened several years ago. The Petitioners have recently experienced a parking shortage, and propose to construct twelve (12) additional spaces, for which zoning relief is required.

The relief required is sought under alternative theories (variance and B.C.Z.R. § 409.12), and in this case I believe the modified parking plan regulations are apropos. Those regulations allow for exceptions to the requirements of B.C.Z.R. §409 when a petitioner is able to show “undue hardship”. I believe the Petitioners here have made such a showing.

The site is bordered by environmentally-sensitive areas, highways and an active railroad line. There is simply nowhere else on site to locate additional parking, and Mr. Thompson indicated there were no offsite opportunities for expansion either. The Tenant Advisory Board at Cove Point submitted a letter to HUD expressing the serious need for additional parking, to ensure that residents and guests “have a safe place to park.” Exhibit 2. At present, residents and guests are parking illegally, which is creating a public safety issue. If the Petitioners were unable to construct these additional spaces, they (and the senior living residents) would experience an undue hardship.

Pursuant to the advertisement, posting of the property, and the public hearing, and after considering the testimony and evidence offered, I find that Petitioners’ Special Hearing request should be granted.

THEREFORE, IT IS ORDERED this 28th day of August 2013, by this Administrative Law Judge, that Petitioners' request for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to permit a modified parking plan in accordance with B.C.Z.R. §409.12, be and is hereby GRANTED. The modified parking plan will permit the construction of twelve (12) additional parking spaces at the site with: (1) drive aisles of 20', in lieu of the required 22', for two-way traffic and 90° angle spaces; (2) setback of 2' to a street line in lieu of the required 10'; and (3) screening and landscaping of zero (0) feet in lieu of the ten (10) feet required by the B.C.Z.R. and Landscape Manual.

IT IS FURTHER ORDERED that Petitioner's request for Variance pursuant to §§ 409.8.A.4 and 409.8.A.1 from B.C.Z.R. as follows: (1) to permit a setback of zero (0) ft. to a street line in lieu of the required 10'; and (2) to permit screening and landscaping of zero (0) ft. in lieu of the 10' required, be and is hereby DISMISSED WITHOUT PREJUDICE AS MOOT.

The relief granted herein shall be subject to the following:

- Petitioners may apply for appropriate permits 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.
- Petitioners must comply with the ZAC comment submitted by the Department of Environmental Protection and Sustainability (DEPS), a copy of which is attached hereto.

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/sln