

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2829 Eastern Boulevard)		
15 th Election District	*	OF ADMINISTRATIVE
6 th Councilman District		
CPC Properties, LLC, <i>Legal Owner</i>	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2014-0065-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by CPC Properties, LLC, legal owner of the subject property (“Petitioner”). The Variance was filed pursuant to the Baltimore County Zoning Regulations (“B.C.Z.R”) as follows:

- To rescind the variance to allow a building (existing dwelling) to building (proposed phase one building) setback of 20 ft. in lieu of the required 55' setback (§§ 238.1 and 238.2);
- To rescind the variance to allow zero (0) outside parking spaces in lieu of the required three (3) outside parking spaces until the existing dwelling is razed (§409);
- To allow a 120' long building in lieu of the 96' long building approved; and
- To allow a 20' side yard setback in lieu of the required 30' side yard setback (§238.2).

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 requests was Bruce E. Doak, with Bruce E. Doak Consulting, LLC, who prepared the site plan. Roger Elliott, Esquire represented the Petitioner. There were no Protestants or interested citizens in attendance and the file does not

contain any letters of protest or opposition. The file reveals that the Petition was advertised and posted as required by the B.C.Z.R.

Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) dated October 18, 2013, indicating that agency did not oppose the petition, but recommended landscaping be installed to mitigate the visual impacts the new building will have on Eastern Boulevard. Also, a ZAC comment was received from the Maryland Department of Transportation, State Highway Administration (SHA), on September 24, 2013, indicating that an entrance permit (onto Eastern Blvd.) must be obtained. Finally, a ZAC comment was received from the Bureau of Development Plans Review (DPR) dated September 24, 2013, indicating that the minimum width for a commercial entrance onto a State road is 25', and that a landscape plan must be submitted and approved by DRP prior to issuance of any permits.

Testimony and evidence revealed that the subject property is approximately 13,135 square feet and is zoned MH - IM. The property was the subject of a recent zoning case (#2013-0211-A) in which variance relief was granted. Since that time, the site has been cleared and a dilapidated single family dwelling was razed. The Petitioner proposes to now construct a commercial storage facility which will be designed for and marketed to small contractors and similar tradesmen, for storage of equipment and supplies.

Based upon the testimony and evidence presented, I will grant the petition for variance.

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).

Petitioner has met this test. As noted in the earlier case, the lot here is one of the smallest in the vicinity, and it is also very narrow. Thus it is unique for zoning purposes. If the B.C.Z.R. were strictly interpreted the Petitioner would indeed suffer a practical difficulty, since it would be unable to construct the proposed improvements. 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, and for the reasons set forth above, the relief requested shall be granted, subject to the conditions noted below.

THEREFORE, IT IS ORDERED, this 3rd day of December, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (“B.C.Z.R”) as follows:

- To rescind the variance (granted in Case No. 2013-0211-A) to allow a building (existing dwelling) to building (proposed phase one building) setback of 20’ in lieu of the required 55’ setback (§§ 238.1 and 238.2),
- To rescind the variance (granted in Case No. 2013-0211-A) to allow zero (0) outside parking spaces in lieu of the required three (3) outside parking spaces until the existing dwelling is razed (§409),
- To allow a 120’ long building in lieu of the 96’ long building approved in Case No. 2013-0211-A, and
- To allow a 20’ side yard setback in lieu of the required 30’ side yard setback (per B.C.Z.R. § 238.2),

be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for appropriate 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 such time as the 30-day appellate process from 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.
- Petitioner must comply with ZAC comments submitted by SHA (dated 9-24-2013) and DPR (dated 9-24-2013).
- The Petitioner shall provide a vegetative buffer along the west side of the property, as requested by the DOP. This requirement will be waived if Petitioner provides to the DOP and/or DPR written verification from the adjoining owner (the State of Maryland and/or Air National Guard) that doing so would present a security concern.

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