

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(1306 and 1308 Bellona Avenue)</b>		
8 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
3 <sup>rd</sup> Councilmanic District		
Beltway Investors	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2014-0177-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by David H. Karceski, Esquire, of Venable, LLP on behalf of the legal owner, Beltway Investors, Petitioner. The Variance was filed pursuant to §§ 238.1 and 303.2 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to allow a front yard depth of 15 ft. in lieu of the required 56.5 ft. (as determined by the front yard averaging regulations). 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 Greg Pinkard, Nicole Reedy and Matt Bishop from Morris & Ritchie Associates, Inc., the firm that prepared the site plan. David H. Karceski, Esquire and Justin Williams, Esquire with Venable, LLP, appeared as counsel and represented the Petitioner. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations.

The only substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP) dated April 7, 2014, indicating that agency supports the Petitioner’s request.

Testimony and evidence revealed that the subject property is approximately 5.14 acres

and is split- zoned BR and DR 16. The property is improved with a large office building, which has been vacant for over a year. The Petitioner would like to modernize the building and construct an addition onto the structure, to increase its marketability. To do so requires variance relief.

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. Mr. Bishop, a licensed Professional Engineer who was accepted as an expert, testified (via proffer) that the property is irregularly shaped, split-zoned and contains a 20' ± grade change from the rear to the front of the site. I believe these factors make the property unique.

If the B.C.Z.R. were strictly interpreted the Petitioner would suffer a practical difficulty, since it would be forced to construct the addition in an undesirable location, set back from the other adjoining buildings also owned by 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 demonstrated by the absence of County and/or community opposition.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the variance relief requested shall be granted

THEREFORE, IT IS ORDERED, this 6<sup>th</sup> day of May, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to §§ 238.1

and 303.2 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to allow a front yard depth of 15 ft. in lieu of the required 56.5 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. 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.

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

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB: sln