

IN RE: PETITION FOR VARIANCE
(6350 Frederick Road)
1st Election District
1st Councilman District
Dr. Cheryl Burke
Petitioner

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2013-0312-A

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Michael T. Wyatt, Esquire, on behalf of the legal owner, Dr. Cheryl Burke. The Variance was filed pursuant to Baltimore County Zoning Regulations (“B.C.Z.R”) as follows: (1) to allow two (2) signs along the road frontage in lieu of the permitted one (1) sign pursuant to §450.4 Attachment 1; (2) to allow six (6) lines of copy in lieu of the permitted five (5) lines of copy pursuant to §450.4 Attachment 1.7(b); (3) to permit two (2) signs within 36 feet of each other in lieu of the required 100 feet pursuant to §450.5.B(4)(a); and (4) to permit a sign within 34 feet of a residential zone in lieu of the required 100 feet pursuant to §450.5.B(4)(b) . 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 4.

Appearing at the public hearing in support of the requests was Dr. Cheryl Burke and architect, Kevin Glover, with KGRW & Associates, LLC, who prepared the site plan. Michael T. Wyatt, Esquire appeared as counsel and 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 properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

There were no substantive Zoning Advisory Committee (ZAC) comments received.

Testimony and evidence revealed that the subject property is approximately 1.69 +/- acres and zoned BL-AS, and RO. The Petitioner has for many years operated an animal hospital at this property, which is situated behind a 7-Eleven retail store. At present, the Petitioner has no signage along Frederick Road; only the 7-Eleven has an enterprise sign along the road frontage. See Exhibit 2. The Petitioner proposes to install two (2) enterprise signs, as designed by and shown on the plans prepared by Mr. Glover. Exhibit 3. To do so, requires variance relief.

Based upon the testimony and evidence presented, I will grant the request for variance relief. 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).

Petitioner has met this test. The site is narrow, extremely deep and irregularly shaped. As such, it is unique.

If the B.C.Z.R. were strictly enforced, the Petitioner would indeed suffer a practical difficulty, since she would be unable to install the proposed signage which would help to direct prospective clients to her clinic. 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. In addition, as noted by Mr. Glover, the subject property is located at the intersection of Frederick Road and Paradise Avenue, which are extremely crowded and congested roadways, and the attractive signage proposed will enhance the appearance and safety of these thoroughfares.

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 3rd day of September, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Baltimore County Zoning Regulations (“B.C.Z.R”) as follows: (1) to allow two (2) signs along the road frontage in lieu of the permitted one (1) sign pursuant to §450.4 Attachment 1; (2) to allow six (6) lines of copy in lieu of the permitted five (5) lines of copy pursuant to §450.4 Attachment 1.7(b); (3) to permit two (2) signs within 36 feet of each other in lieu of the required 100 feet pursuant to §450.5.B(4)(a); and (4) to permit a sign within 34 feet of a residential zone in lieu of the required 100 feet pursuant to §450.5.B(4)(b), 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 her 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.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB: dlw