

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(8101 Park Heights Avenue)		
3 rd Election District	*	OF ADMINISTRATIVE
2 nd Councilman District		
Beth El Congregation of Baltimore	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2014-0165-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Steven D. Silverman, Esquire, on behalf of the legal owner, Beth El Congregation of Baltimore, Petitioner. The Variance was filed pursuant to Baltimore County Zoning Regulations (“B.C.Z.R”) to permit a 28 ft. building setback in lieu of the required 50 ft. corner street side building setback. 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 Gilbert Kleiner and engineer Richard E. Matz. Deborah Dopkin, Esquire, appeared as counsel and represented the Petitioner. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants in attendance and the file does not contain any letters of opposition or protest.

The only substantive Zoning Advisory Committee (ZAC) comment received was from the Department of Environmental Protection and Sustainability (DEPS), dated February 25, 2014. That agency noted the Petitioner must comply with the Forest Buffer and Forest Conservation Regulations.

Testimony and evidence revealed that the subject property is approximately 14.58 ± acres. The property is zoned D.R.2, and is the home of the Beth El Congregation. Beth El has been at this location for over sixty years, and offers religious services and preschool programs. The Congregation would like to expand its preschool offerings, and obtain additional certifications for its programs. To do so, the Congregation proposes to construct a “common room” for the children, parents and teachers. Variance relief is needed to undertake the project.

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 seen on the site plan and aerial photo (Exhibits 1 & 2), the site is irregularly shaped and is therefore unique. If the B.C.Z.R. were strictly interpreted the Petitioner would suffer a practical difficulty, since it would be unable to construct the proposed building. 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 4th day of April, 2014, 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”) to permit a 28 ft. building setback in lieu of the required 50 ft. corner street side building setback, 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.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB: sln