

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(8322 Bellona Avenue)</b>		
8 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
5 <sup>th</sup> Councilman District		
Bellona Lane Orthopedic Associates, LLC	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2014-0093-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 G. Scott Barhight, Esquire, on behalf of the legal owner of the subject property. The Petitioner is requesting Variance relief from Section 450.7.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a Directory Sign in an OR 1 zone for a building where at least 75% of the tenants or functions do not have independent direct outside access to the building. 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 Joyce Cahalan and Mitch Kellman with Daft, McCune & Walker, Inc., the firm that prepared the site plans. Adam Baker, Esquire with Whiteford, Taylor & Preston, 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 opposition. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Zoning Advisory Committee (ZAC) comments received.

Testimony and evidence revealed that the subject property is approximately 4 acres and is split-zoned OR 1 & RO. The current sign on the property identifies the building on site as the “Ruxton Professional Center.” See Exhibit 1, sign detail. The Petitioner proposes to replace the

existing sign with one (of roughly the same size and appearance) that identifies each of the medical offices or health care providers located in the building. To do so requires variance relief.

Based upon the (proffered) testimony and evidence presented, I will grant the request for variance relief. 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. Kellman testified the property has a very irregular shape and is split-zoned. Thus it is unique.

If the B.C.Z.R. were strictly enforced, the Petitioner would suffer a practical difficulty, since it would be unable to install the sign identifying the providers on site, which would be of great assistance to patients trying to locate the facility. 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 lack 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 30th day of January, 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 Directory Sign in an OR 1 zone for a building where at least 75% of the tenants or functions do not have independent direct outside access to the building, 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.

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