

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(1 Easter Court)		
4 th Election District	*	OF ADMINISTRATIVE
4 th Councilman District		
Dellcrest Realty LLC, <i>Owner</i>	*	HEARINGS FOR
Dellcrest Properties 1, LLC, <i>Lessee</i>	*	BALTIMORE COUNTY
Petitioners	*	
	*	CASE NO. 2014-0112-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Patricia A. Malone, Esq., on behalf of Dellcrest Realty LLC, legal owner and Dellcrest Properties 1, LLC, lessee (“Petitioners”). The Petitioners are requesting variance relief from Sections 255.1 and 238.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a side yard setback of 0 ft. in lieu of the required 30 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the public hearing in support of the requests was David Martin, Daniel Thomas and Thomas Pilon. Patricia A. Malone, Esq., with Venable, LLP, appeared as counsel and represented the Petitioners. The file reveals that 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.

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

Testimony and evidence revealed that the subject property is approximately 7.08 acres and is zoned ML-IM. The property has an approved CRG plan (Exhibit 2) and will be developed as a business park with some commercial aspects as well. The relief sought here pertains only to an

interior lot line.

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).

Petitioners have met this test. The property is irregularly shaped and is comprised of several separate parcels with different ownership. As such, it is unique.

If the B.C.Z.R. were strictly interpreted, the Petitioners would indeed suffer a practical difficulty, given they would be unable to position proposed "Building F" within the lot lines. 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 community and/or county agency 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 27th day of January, 2014, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Sections 255.1 and 238.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a side yard setback of 0 ft. in lieu of the required 30 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners 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