

<b>IN RE: PETITIONS FOR SPECIAL</b>	*	BEFORE THE
<b>EXCEPTION AND VARIANCE</b>	*	OFFICE OF
<b>(6505 Liberty Road)</b>	*	ADMINISTRATIVE HEARINGS
2 <sup>nd</sup> Election District	*	FOR BALTIMORE COUNTY
4 <sup>th</sup> Council District	*	
Olubunmi Owojuyigbe, <i>Legal Owner</i>	*	<b>Case No. 2015-0177-XA</b>
Petitioner	*	

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**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as Petitions for Special Exception and Variance filed for property located at 6505 Liberty Road. The Petitions were filed on behalf of Olubunmi Owojuyigbe, legal owner of the subject property. The Petitioner seeks special exception relief per Baltimore County Zoning Regulations (B.C.Z.R.) to use a portion of the property for an architect’s office. The petition for variance seeks relief under B.C.Z.R. §1B01.1.C.12 (1) to permit as much as 35% of total floor area of residence as office or studio in lieu of the maximum allowed 25%; and (2) to permit as many as two (2) non-resident professional associates in lieu of the maximum allowed one (1). The subject property and requested relief are more fully described on the site plan which was marked as Petitioner’s Exhibit 1.

Appearing at the hearing in support of the Petitions was Olubunmi Owojuyigbe. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPR) and the Department of Planning (DOP). Neither agency opposed the requests, but suggested that landscape screening be provided along Liberty Road, and that the site plan be amended to reflect that the primary use of the property is for a

residential dwelling, with a professional (architect) office as an accessory use. The Order below will incorporate conditions to address these concerns.

The subject property is approximately 0.126 acres and is zoned D.R. 5.5. The property is improved with a single family dwelling. The Petitioner purchased the home in 2014, and reports that it was a foreclosed property in very poor condition. The Petitioner is an architect, and lives in the basement of the home. He proposes to use a portion of the first floor of the dwelling as an office for the practice of architecture.

### SPECIAL EXCEPTION

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. Schultz v. Pritts, 291 Md. 1 (1981). The Schultz standard was revisited in People's Counsel v. Loyola College, 406 Md. 54 (2008), where the court emphasized that a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use. No such evidence was presented in this case. In fact, the Petitioner noted that his neighbors are supportive and are glad that he has improved a blighted property.

### 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. The lot is of irregular dimensions, and is therefore unique. If the B.C.Z.R. were strictly interpreted Petitioner would suffer a practical difficulty, in that he

would be unable to operate his office in the home. 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.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 20<sup>th</sup> day of April, 2015, that the Petition for Special Exception under B.C.Z.R. to use a portion of the first floor of the property for a professional architect's office, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Variance from B.C.Z.R. §1B01.1.C.12 (1) to permit as much as 35% of total floor area of residence as office or studio in lieu of the maximum allowed 25%; and (2) to permit as many as two (2) non-resident professional associates (i.e., licensed architects) in lieu of the maximum allowed one (1), be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. Petitioner must provide landscape screening along the Liberty Road frontage, as determined in the sole discretion of the County's landscape architect.
3. All signage at the property must comply with B.C.Z.R. §450.
4. No employees or agents other than Petitioner and at most two other non-resident architects licensed in the State of Maryland may use the specified portion of the dwelling for professional office purposes.
5. The Petitioner must at all times during the operation of the accessory professional office use reside at the subject property, and prior to the issuance of permits Note 5 of the site plan must be revised to reflect that the proposed use is residential, with an accessory use for a professional (architect) office.

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