

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2932 Hammonds Ferry Road)		
13 th Election District	*	OF ADMINISTRATIVE
1 st Council District		
Skyworks of Virginia, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0195-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of the legal owners of the subject property. The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §§ 255.1 and 238.2 for a side yard setback of 5 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 as Petitioner’s Exhibit 1.

Carl Bisser on behalf of the owner and professional engineer Rick Richardson appeared in support of the petition. John B. Gontrum, Esq. appeared and represented the Petitioner. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. The only Zoning Advisory Committee (ZAC) comment received was from the Bureau of Development Plans Review (DPR) which indicated that an approved landscape and lighting plan will be required prior to issuance of building permits.

The subject property is approximately 55,173 square feet and is zoned ML-IM. The property is improved with an industrial-style building, which functions as a service and repair facility for Petitioner’s business. Petitioner proposes to construct an addition to the building but requires variance relief to do so.

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 property is irregularly shaped and is therefore unique. In addition, former Deputy Zoning Commissioner Murphy granted a variance for this property in Case No. 04-271, finding that "special circumstances" justified such relief. Petitioner's Exhibit 2, at p.3.

If the B.C.Z.R. were strictly interpreted, Petitioner would experience a practical difficulty, given it would be unable to construct the proposed addition. 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.

THEREFORE, IT IS ORDERED, this 21st day of April, 2015, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations ("B.C.Z.R.") §§ 255.1 and 238.2 for a side yard setback of 5 ft. in lieu of the required 30 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to 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 its 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. Prior to issuance of permits, Petitioner must provide landscaping at the site as determined in the sole discretion of the County's landscape architect.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JEB: sln

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County