

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(2100 East Joppa Road) *	OFFICE OF
9 th Election District	
5 th Council District *	ADMINISTRATIVE HEARINGS
Dr. Narender & Bhavneet Bharaj,	
<i>Legal Owners</i> *	FOR BALTIMORE COUNTY
Petitioners *	Case No. 2014-0235-SPHA
* * * * *	

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed by Jason T. Vettori, Esquire, on behalf of Dr. Narender & Bhavneet Bharaj, the legal owners. The Special Hearing was filed pursuant to §500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) seeking approval of a modified parking plan. The variance petition seeks relief from B.C.Z.R. § 232.2 to permit a 0' side yard setback in lieu of the required 10' side yard setback.

The subject property and requested relief is more fully depicted on the revised site plan that was marked and accepted into evidence as Petitioners’ Exhibit 2. Appearing at the public hearing in support of the requests was John Demos, P.E. and Narender Bharaj. Jason T. Vettori, Esquire, from Smith, Gildea & Schmidt, LLC appeared and represented the Petitioners. Two neighbors attended the hearing to obtain further explanation and clarification of the relief being sought. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations.

Substantive Zoning Advisory Committee (ZAC) comments were submitted by the Department of Planning (DOP) and Bureau of Development Plans Review (DPR). The DOP expressed support for the project, which is within the Loch Raven Revitalization District. Originally, the Bureau of DPR objected to the petition. But after a discussion between

Petitioners' engineer (Mr. Demos) and Mr. Kennedy, the plan was revised, and the Bureau of DPR no longer objects to the variances being sought. Petitioners' Exhibit 4.

The subject property is approximately 0.4 acres and is zoned BL. The property is located along Joppa Road, in an area where former dwellings are being converted to commercial uses. Petitioners propose to raze the existing single family dwelling on site, and construct in its place a 4,000 sq. ft. office building. Due to the configuration of the site, and the desire to position the building away from the adjoining dwelling owned by Harry Elgert, Petitioners require variance relief and a modified parking plan (primarily for reduced landscaping setbacks).

As noted, the petition for special hearing seeks to modify the landscape strip and surface parking lot setbacks for the site. The relief requested is modest, and will not in any way impact the adjoining residential property. As such, the petition will be granted.

Based upon the testimony and evidence presented, I will also grant the petition for variance. To obtain variance relief a petitioner must show:

- (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).

The Petitioners have met this test. The property is irregularly shaped, primarily due to a roadway taking by Baltimore County. Exhibit 5. Thus, the property is unique.

I also find that strict compliance with the B.C.Z.R. would result in practical difficulty, given that Petitioners would be unable to construct the proposed improvements, which are permitted in the BL zone. 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 Baltimore County

opposition. Given the revisions to the plan, the zoning relief required will be less than originally sought in the petition.

THEREFORE, IT IS ORDERED this 8th day of July, 2014, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R) as follows:

1. A modified parking plan pursuant to Section 409.12.B of the Baltimore County Zoning Regulations (B.C.Z.R.):
 - a. 409.8.A.1 of the B.C.Z.R. to permit a modification of the landscape-strip requirements to allow a 6 ft. strip in lieu of the required 10 ft. strip along Clement Avenue and a 3 ft. strip in lieu of the required 6 ft. between paved surfaces and lot/lease lines adjacent to commercial uses or zones; and
 - b. 409.8.A.4 of the B.C.Z.R. to permit a parking space in a surface parking facility for a nonresidential use to be located 4.7 ft. from the right-of-way line of a public street in lieu of the required 10 ft. setback, be and is hereby GRANTED

IT IS FURTHER ORDERED that the Petition for Variance pursuant to B.C.Z.R. §232.2 to permit a 0' side yard setback in lieu of the required 10' side yard setback (street side), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. 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.
2. Prior to issuance of permits, Petitioners must obtain approval from the County’s landscape architect of a landscape plan.
3. Prior to issuance of permits, Petitioners must submit for review by the DOP proposed building elevations and details of proposed signage and dumpster enclosure.

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