

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(8234 Belair Road)	*	OFFICE OF
14 th Election District		
6 th Council District	*	ADMINISTRATIVE HEARINGS
Sarju David Singh		
Petitioner	*	FOR BALTIMORE COUNTY
	*	Case No. 2014-0256-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of the legal owner. The Special Hearing was filed pursuant to §500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to amend the previously approved Special Exception in Case No. 05-380-X. The variance petition seeks relief from B.C.Z.R. §§ 238.2 and 409.6.A.2 as follows: (1) to permit a 3 ft. side building setback in lieu of the required 30 ft. side building setback and to permit a 10 ft. rear building setback in lieu of the required 30 ft. rear building setback; and (2) to permit 12 parking spaces in lieu of the required 17 parking spaces.

The subject property and requested relief is more fully depicted on the redlined site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1. Appearing in support of the requests was owner David Singh, and Maxwell Vidaver and Richard Matz, P.E., whose firm prepared the site plan. Jennifer R. Busse, Esquire, appeared and represented the Petitioner. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants or interested persons in attendance, and the file does not contain any letters of opposition.

Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) dated June 23, 2014, from the Department of Environmental

Protection and Sustainability (DEPS) dated July 3, 2014, and from the Bureau of Development Plans Review (DPR) dated June 3, 2014. These will be discussed in greater detail below.

The subject property is 18,909 square feet (0.434 acres ±) in size and is zoned B.R. The Petitioner purchased the property in 2005, and at that time (in case # 2005-0380-X) obtained a special exception to sell used motor vehicles from the site. Other commercial uses have also been conducted on the property since that time. At present, the Petitioner proposes to construct a 3,300 sq. ft. addition (the existing structure, built in 1950, will remain) at the site. The Petitioner will operate a service garage (permitted as of right in the B.R. zone) and sell used motor vehicles at the facility (as permitted by the special exception granted in 2005), but requires variance relief to do so.

Based upon the testimony and evidence presented, I will 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).

Petitioner has met this test. The property has an irregular shape, and is also adjacent to White Marsh Run, which constrains the usable portion of the property. As such, it is unique.

I also find that strict compliance with the B.C.Z.R. would result in practical difficulty, given that the Petitioner would be unable to construct the proposed 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 absence of County and/or community opposition.

ZAC Comments

The DEPS noted Petitioner must comply with forest buffer and other environmental regulations, and a condition to that effect is included below. The Bureau of DPR advised that a landscape and lighting plan are required, and the Order which follows contains such a requirement. Finally, the DOP set forth a list of 8 proposed conditions in its ZAC comment. The Petitioner submitted a redlined site plan (with a revision date of July 16, 2014) that addressed specifically condition numbers 2-7, and condition numbers 1 & 8 (regarding building elevations and signage) will be included below.

THEREFORE, IT IS ORDERED this 17th day of July, 2014, by this Administrative Law Judge, that the Petition for Variance pursuant to Baltimore County Zoning Regulations (“B.C.Z.R.”) §§ 238.2 and 409.6.A.2 as follows: (1) to permit a 3 ft. side building setback in lieu of the required 30 ft. side building setback and to permit a 10 ft. rear building setback in lieu of the required 30 ft. rear building setback; and (2) to permit 12 parking spaces in lieu of the required 17 parking spaces, be and is hereby GRANTED;

IT IS FURTHER ORDERED that the Petition for Special Hearing filed pursuant to B.C.Z.R §500.7 to reaffirm and amend (in accordance with the terms of this Order) the previously approved Special Exception in Case No. 05-380-X, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. 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 his 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.
2. Prior to issuance of permits, Petitioner must submit for approval to Baltimore County a landscape and photometric lighting plan.
3. Prior to issuance of permits, Petitioner must comply with the forest buffer and floodplain regulations set forth in Article 33, Title 3 of the Baltimore County Code (B.C.C.), as determined by the DEPS.

4. Prior to issuance of permits, Petitioner must submit to the DOP proposed building elevations along with details of proposed building and/or freestanding signs.

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