

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(516 Middle River Road)		
15 th Election District	*	OF ADMINISTRATIVE
6 th Councilman District		
MRC Enterprise, LLC	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0005-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 owner of the subject property. The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) § 238.2 to permit a rear yard setback of 6’ in lieu of the required 30’ for an addition to an existing building. 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 request was Gary Welch. David Billingsley with Central Drafting & Design, Inc., whose firm prepared the site plan, appeared on behalf of the Petitioner. There were no interested citizens in attendance and the file does not contain any letters of opposition or protest. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPR) dated July 28, 2014 and the Department of Planning (DOP) dated August 4, 2014.

The subject property is approximately 0.210 acres and is zoned BR. Petitioner operates an automobile service garage on the premises, with four (4) bays for repairs, as shown on the site plan (Exhibit 1) and photographs (Exhibits 6A – 6H). Petitioner proposes to construct an

additional service bay on the west side of the existing building. The bay would be 29' x 20', or 580 sq. ft. Petitioner was granted variance relief in 1979 for a 4' rear yard setback (Case No. 1980-0041-A), and this dimension is shown on the site plan. The County required Petitioner to obtain variance relief for a 6' rear yard setback for the new service bay, even though the existing bays have a 4' setback.

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 has irregular dimensions, and was created as part of a 1983 two lot subdivision. Exhibit 4. As such, the property is unique.

If the B.C.Z.R. were strictly interpreted, the Petitioner would suffer a practical difficulty, given he would be unable to construct the proposed service bay and expand the business. 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 opposition.

THEREFORE, IT IS ORDERED, this 4th day of September, 2014, 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.") § 238.2 to permit a rear yard setback of 6' in lieu of the required 30' for an addition to an existing building, 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 its 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. Petitioner must comply with the ZAC comments of DOP and DPR; which are attached hereto and incorporated herein.

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:dlw