

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(4 Old Court Road)</b>		
3 <sup>rd</sup> Election District	*	OF ADMINISTRATIVE
2 <sup>nd</sup> Council District		
DAKSH, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	<b>CASE NO. 2016-0098-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of DAKSH, LLC, legal owner of the subject property (“Petitioner”). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: (1) to permit a two-way driveway of 11.3 ft. in width in lieu of the required 20 ft. in width, pursuant to §409.4.A; (2) to permit 6 parking spaces in lieu of the required 11, pursuant to §409.6.A.2; (3) to permit a parking space to be located 6 ft. from a right-of-way line in lieu of the required 10 ft., pursuant to §409.8.A.4; and (4) to permit an amenity open space ratio of zero in lieu of the required ratio of 0.1, pursuant to §232.B.4. A site plan was marked as Petitioner’s Exhibit 4.

Virendra Patel and professional engineer Rich Richardson appeared in support of the Petition. Jennifer Busse, Esq. appeared on behalf of the Petitioner. The Petition was advertised and posted as required by the B.C.Z.R. No Protestants or interested citizens attended the hearing. Substantive Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPR).

The subject property is approximately 7,999 square feet and is zoned BL-CT. The property is improved with a commercial building which was used for many years by Baltimore Gas &

Electric as an electric utility substation. The site has been vacant for nearly 20 years and the community refers to it as an “eyesore.” Petitioner’s Ex. 3. Mr. Patel has operated for several years in a nearby shopping center a liquor store known as “Vineyards Elite,” which caters to wine enthusiasts. He would like to relocate his business to the subject property, but requires zoning relief to do so.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

*Cromwell v. Ward*, 102 Md. App. 691 (1995).

Petitioner has met this test. The narrow and deep property has irregular dimensions and a grade/elevation change across the site. As such it is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be unable to relocate the business to this location. 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 opposition and the support of the Sudbrook Park community. See Exhibit 3.

THEREFORE, IT IS ORDERED, this 22<sup>nd</sup> day of **March, 2016**, 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.”) as follows: (1) to permit a two-way driveway of 11.3 ft. in width in lieu of the required 20 ft. in width, pursuant to §409.4.A; (2) to permit 6 parking spaces in lieu of the required 11, pursuant to §409.6.A.2; (3) to permit a parking space to be located 6 ft. from a right-of-way line in lieu of the required 10 ft., pursuant to §409.8.A.4; and (4) to permit an

amenity open space ratio of zero in lieu of the required ratio of 0.1, pursuant to §232.B.4, 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 submit for approval by the Baltimore County Landscape Architect lighting and landscape plans for the site.

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