

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(7804-7814 Harford Road; 2908 Taylor Ave.)		
14 th Election District	*	OF ADMINISTRATIVE
6 th Council District		
CPHarford, LLC	*	HEARINGS FOR
C & S Realty, LLC		
<i>Petitioners</i>	*	BALTIMORE COUNTY
	*	CASE NO. 2016-0159-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 CPHarford, LLC and C & S Realty, LLC, legal owners of the subject property (“Petitioners”). Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) § 409.6 A to permit 53 parking spaces in lieu of the required 243 parking spaces. A redlined site plan was marked as Petitioners’ Exhibit 5.

Kevin Gunthert appeared in support of the Petition. Caroline L. Hecker, Esq. represented CPHarford, LLC. The Petition was advertised and posted as required by the B.C.Z.R. Two neighbors attended the hearing to obtain additional information regarding the request. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR).

The subject property is approximately 15,188 square feet and is zoned BL-CCC and DR 5.5. The property is improved with several commercial buildings and a parking lot. Petitioners recently purchased the property, and would like to secure new tenants for the buildings, several of which have been vacant for many years. Regarding the required number of parking spaces, Petitioners assumed for purposes of calculation that each vacant tenant space in the commercial buildings would be occupied by restaurants, which require 16 spaces per 1,000 sq. ft. By

employing this conservative calculation Petitioners will avoid needing to seek parking variances for each future tenant depending upon whether the use was for a restaurant, office, hair salon or any number of other permitted uses, all of which have different parking requirements under the B.C.Z.R.

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).

Petitioners have met this test. The property is L-shaped and is therefore unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to market the properties to new commercial tenants. 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 Baltimore County and/or community opposition. The Bureau of DPR requested in its ZAC comment the parking along Taylor Avenue be screened. But Petitioners (and the neighbors in attendance) pointed out that doing so may reduce visibility and create a traffic hazard along Taylor Avenue, which they noted is a heavily travelled thoroughfare. As such, I will not include that recommendation as a condition upon the relief granted.

THEREFORE, IT IS ORDERED, this 16th 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.”) § 409.6 A to permit 53 parking spaces in lieu of the required 243 parking spaces, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are 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, Petitioners would be required to return the subject property to its original condition.
2. Petitioners must comply with the ZAC comment of the DOP dated March 10, 2016, a copy of which is attached.

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:/sln