

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(1201 Eastern Blvd.)</b>		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
7 <sup>th</sup> Council District		
WTWM, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	<b>CASE NO. 2016-0162-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 WTWM, LLC, owner of the subject property (“Petitioner”). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §238.2 to permit a 3 ft. side yard setback in lieu of the required 30 ft. for a building addition (Private Car Wash). A site plan was marked as Petitioner’s Exhibit 1.

Tammi Reeder, a member of the owner/entity and David Billingsley from Central Drafting & Design, Inc. appeared in support of the Petition. 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) and the Department of Planning (DOP).

The subject property is approximately 36,163 square feet and is zoned BR-AS. The property is improved with a commercial building housing three tenants: Remax Realty, State Farm Insurance and Enterprise Rent-A-Car. The car rental agency would like to clean its rental vehicles on site, and sought permission from the owner to do so. A small enclosed structure would be constructed for this purpose, and it would be situated to the rear of the property adjoining a parking lot for a KFC fast food restaurant.

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 property has irregular dimensions and is therefore unique. A similar finding was made in Case No. 2015-0163-A wherein Petitioner was granted variance relief for signage at the property. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be unable to provide the car wash amenity sought by its tenant. 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.

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.”) §238.2 to permit a 3 ft. side yard setback in lieu of the required 30 ft. for a building addition (Private Car Wash), 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 landscape and lighting plans for the site.

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