

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(18 Old Padonia Road)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
BCBT, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2016-0200-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 BCBT, LLC, legal owner of the subject property (“Petitioner”). Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §§ 255.1 and 238.2 to permit side yard setbacks of 3.0 ft. in lieu of the required 30 ft. and a rear yard setback of 3.0 ft. in lieu of the required 30 ft. A site plan was marked as Petitioner’s Exhibit 1.

Bill Malstrom and professional engineer Rick Richardson appeared in support of the Petition. Jennifer Busse, Esq. represented the Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR). A condition will be included in the Order below to address those comments.

The subject property is 19,191 square feet and zoned ML. The property is improved with a two-story office building, used as the business headquarters of Petitioner’s electrical contracting company (Malstrom Electric). Petitioner proposes to construct a garage at the rear of the site, which will be used for storage of inventory, equipment and machinery used in the business.

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 is triangular in shape and is therefore unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be unable to construct the proposed garage. 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 County and/or community opposition.

THEREFORE, IT IS ORDERED, this 6th day of **May, 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.”) §§ 255.1 and 238.2 to permit side yard setbacks of 3.0 ft. in lieu of the required 30 ft. and a rear yard setback of 3.0 ft. in lieu of the required 30 ft., 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. Petitioner must comply with the ZAC comments submitted by the DOP and DPR, copies of which are attached hereto and made a part hereof.

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