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| IN RE: PETITION FOR VARIANCE | * | BEFORE THE OFFICE |
| (5330, 5332 & 5400 Old Court Road) | | |
| 2 nd Election District | * | OF ADMINISTRATIVE |
| 4 th Council District | | |
| Lifebridge Health Inc. | * | HEARINGS FOR |
| Northwest Hospital Center Inc. | | |
| <i>Legal Owners</i> | * | BALTIMORE COUNTY |
| Petitioners | | |
| | * | CASE NO. 2016-0069-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 Lifebridge Health Inc. and Northwest Hospital Center Inc., owners of the subject property (“Petitioners”). Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows:

Setbacks for 5400B Old Court Road

1. To allow a front yard setback and rear yard setback of 10 and 25 feet respectively in lieu of the required 30 foot front yard and 30 foot rear yard setbacks in the DR 16 zone, pursuant to §1B01.2.C.1; and
2. To allow an interior side yard setback of 5 foot in lieu of the required 25 feet in the DR 16 zone, pursuant to §1B01.2.C.1

Building Height for 5400B Old Court Road

3. To allow a building height of 55 feet in lieu of the maximum permitted 50 feet pursuant to § 300.2

Sign Variances

4. To allow 2 wall-mounted identification signs (Sign Nos. 1 and 2), with sign area/faces of 214 square feet on an institutional building with one road frontage in lieu of the 1 wall mounted identification sign permitted with a sign area/face of 25 square feet;
5. To allow a freestanding identification sign (Sign No. 3) with a sign area/face of 45 square feet and a height of 6.5 feet in lieu of the permitted 25 square feet and height of 6 feet;
6. To allow 3 identification signs (Sign Nos 1-3) in lieu of the 1 identification sign

- permitted on property with 1 road frontage, if necessary;
7. To allow two freestanding directional signs (Sign Nos 4-5) in the O-3 zone with sign areas/faces of 12 square feet in lieu of the permitted 8 square feet; and
 8. To allow a freestanding directional sign (Sign No. 6) in the DR16 zone with a sign area/face of 19 square feet in lieu of the permitted 8 square feet and a height of 5.5 feet in lieu of the permitted 4 feet in a residential zone.

A site plan was marked as Petitioners' Exhibit 1.

Kevin Anderson, Mark Tsitlik, Josh Kilrain, Scott Robison and Rich Greco appeared in support of the petition. David H. Karceski, Esq., and Adam Rosenblatt, Esq., represented the Petitioners. 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), and will be discussed below.

The subject property is approximately 1.9 acres and is split-zoned BL, DR16 & O3. The Northwest Hospital Center campus is on the site, and Petitioners propose to construct a new medical office building (which will be constructed in the footprint of an existing building which will be razed) and to renovate another office building adjacent thereto. To do so, zoning relief is required.

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 has an irregular shape and there is a significant grade change across the site. As such it is unique. If the Regulations were strictly interpreted, Petitioners

would experience a practical difficulty because they would be unable to construct the proposed improvements. 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.

In its ZAC comment, the DPR noted that landscape and lighting plans are required for the site, and such a condition is included in the order below. The DOP submitted a similar comment, but also suggested that sign #2 (as shown on the site plan) be illuminated only during “standard business hours,” to reduce any glare from impacting the nearby apartment complex. The apartment complex in question is 196 feet from the proposed sign. Messrs. Anderson (a professional engineer) and Robison (an architect) opined that the residents of the complex would not be negatively impacted by the sign, and that in any event the street lights along Old Court Road, which are much closer, would have a much greater impact upon these residents. In addition, hospital representatives noted that the hospital is open around the clock, and that the medical buildings on which the sign will be affixed are on the Hospital campus. In these circumstances, I believe it would be improper to restrict the hours of illumination for this sign, and counsel noted that all other sign on the Hospital campus are illuminated without any temporal restrictions.

THEREFORE, IT IS ORDERED, this 19th day of November, 2015, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief as follows:

Setbacks for 5400B Old Court Road

1. To allow a front yard setback and rear yard setback of 10 and 25 feet respectively in lieu of the required 30 foot front yard and 30 foot rear yard setbacks in the DR 16 zone, pursuant to §1B01.2.C.1; and
2. To allow an interior side yard setback of 5 foot in lieu of the required 25 feet in the DR 16 zone, pursuant to §1B01.2.C.1

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- 6. To allow 3 identification signs (Sign Nos 1-3) in lieu of the 1 identification sign permitted on property with 1 road frontage, if necessary;
- 7. To allow two freestanding directional signs (Sign Nos 4-5) in the O-3 zone with sign areas/faces of 12 square feet in lieu of the permitted 8 square feet; and
- 8. To allow a freestanding directional sign (Sign No. 6) in the DR16 zone with a sign area/face of 19 square feet in lieu of the permitted 8 square feet and a height of 5.5 feet in lieu of the permitted 4 feet in a residential zone

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 their 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. Prior to issuance of permits Petitioners must submit for approval by the Baltimore County Landscape Architect landscape and lighting plans for the site.
- 3. All dumpster enclosures at the site shall comply with the requirements of the Baltimore County Landscape Manual.

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