

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(10901 McCormick Road)</b>		
8 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
3 <sup>rd</sup> Council District		
Dan Mar Enterprises, LLC	*	HEARINGS FOR
<i>Legal Owner</i>	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2016-0322-A</b>
Petitioner	*	
* * * * *		

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of Dan Mar Enterprises, LLC, owner of the subject property (“Petitioner”). Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: (1) to permit the northern addition to the garage to have a side yard setback of 4 ft. in lieu of the required 30 ft.; (2) to permit the southern addition to the garage to have a side yard setback of 4 ft. in lieu of the required 30 ft.; and (3) to permit 13 parking spaces in lieu of the required 16 parking spaces. A site plan was marked as Petitioner’s Exhibit 1.

Bruce Doak, a property line surveyor, 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 Department of Planning (DOP) and the Bureau of Development Plans Review (DPR).

The subject property is approximately 16,391 sq. ft. and zoned ML-IM. The property is triangular in shape and is improved with two buildings which house commercial uses. At the front of the site is a dry cleaner (which occupies a former single-family dwelling) and in the rear is an automotive body shop, which is the subject of this case. The owner of that business proposes to construct a paint booth and small addition to the body shop building. To do so variance 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).

Petitioner has met this test. The property is triangular and the unique shape generates the need for the setback variances. In fact, variances for this property were granted in Case No. 1988-0496 on the same basis. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be unable to construct the paint booth and garage addition which will help to streamline its business. 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 community opposition.

While the DOP did not oppose the variances for the building setbacks, it did object to the parking variance. That agency indicated the site is congested and the proposed improvements would intensify the operations and demand for parking. Based on the photographs submitted at the hearing (Petitioner's Exhibit 3), it is clear the site is small and supports two commercial enterprises. But I do not believe either business generates much demand for parking. The dry cleaner is a small operation, and Petitioner explained its customers come and go within minutes. And the body shop is essentially an industrial operation which does not generate customer traffic and vehicle trips in the way most commercial and retail operations do. Petitioner testified that for the most part damaged and/or disabled vehicles are brought to the site by tow truck and owners retrieve their car at a later date when the repairs are completed.

Mr. Vekker, who operates the body shop, testified he wants the paint booth to streamline his business rather than increase the number of repairs he performs. He explained he now has to “jockey” vehicles in and out of the garage when a vehicle needs to be painted, while the paint booth will allow cars to be repaired and then painted in assembly-line fashion. As such, I do not believe permitting 13 spaces in lieu of the required 16 (which is greater than 80% of the number of spaces required by B.C.Z.R. §409) would be injurious to the community.

THEREFORE, IT IS ORDERED, this **13<sup>th</sup>** day of September, 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 the northern addition to the garage to have a side yard setback of 4 ft. in lieu of the required 30 ft.; (2) to permit the southern addition to the garage to have a side yard setback of 4 ft. in lieu of the required 30 ft.; and (3) to permit 13 parking spaces in lieu of the required 16 parking spaces, 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 building permits Petitioner must submit for approval by DPR lighting and landscape plans for the site to include an enclosure for the existing dumpster.
3. No damaged or disabled motor vehicles shall for a period longer than 24 hours be stored or kept in the parking areas at the front of the site nearest Beaver Dam and McCormick Roads. All such vehicles must be kept in the storage area shown on the plan (which is enclosed by an 8’ high slatted fence) and in compliance with the requirements of B.C.Z.R. §405A.

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