

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(304 International Circle)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
The Grand Lodge of Ancient Free	*	HEARINGS FOR
And Accepted Masons of Maryland		
<i>Legal Owner</i>	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2017-0172-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by The Grand Lodge of Ancient Free and Accepted Masons of Maryland, owner of the subject property (“Petitioner”). The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (B.C.Z.R) as follows: (1) to permit a minimum setback from any lot line other than a street line of 27 ft. in lieu of the required 50 ft.; (2) to permit a minimum setback from any abutting R.C. zone line of 33 ft. in lieu of the required 150 ft.; and (3) to permit a residential use with a height of 33 ft. in lieu of the required 52 ft. Petitioner originally sought an additional variance of the required setback from the centerline of a street, although it withdrew that request after consultation with the Department of Planning. A site plan was marked as Petitioner’s Exhibit 1.

Gerard Wit and landscape architect Sean Davis appeared in support of the petition. Adam M. Rosenblatt, 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. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Environmental Protection and Sustainability (DEPS). That agency noted Petitioner will need to comply with various environmental regulations in connection with any future development

approvals.

The property is approximately 39.15 acres and is zoned OT, OR1 and DR 10.5. The property is situated to the north of the Hunt Valley Town Center, and is a portion of a 200 acre tract owned by the Petitioner. At present the property is unimproved, although Petitioner proposes to ultimately construct townhomes on the site. Petitioner filed this zoning case to establish a “building envelope” for purposes of seeking development approval to construct homes on the property.

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 irregularly shaped and is zoned (primarily) OT, which is a seldom seen zoning classification. In addition, an underground gas pipeline bisects the property and encumbers over 11 acres of the site. As such, the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to construct an economically feasible residential project on the property. Mr. Davis testified that if zoning relief was not granted, Petitioner would be able to utilize just over 11 acres of the 39 acre tract. 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 and/or Baltimore County opposition. In addition, Petitioner owns much of the land adjoining this parcel, so there would be little or no offsite impact of the variances.

THEREFORE, IT IS ORDERED, this 13th day of February, **2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance as follows: (1) to permit a minimum setback from any lot line other than a street line of 27 ft. in lieu of the required 50 ft.; (2) to permit a minimum setback from any abutting R.C. zone line of 33 ft. in lieu of the required 150 ft.; and (3) to permit a residential use with a height of 33 ft. in lieu of the required 52 ft., be and is hereby GRANTED.

IT IS FURTHER ORDERED that the potential development area (“building envelope”) of the parcel (for purposes of any future zoning and/or development requests) shall be the 21.86 +/- acre tract shaded in green on the plan marked and admitted as Petitioner’s Ex. 7, a copy of which is attached hereto and incorporated herein.

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.

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