

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2109-2115 Greenspring Drive)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
Greenspring Drive 2109-2115, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2017-0176-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by 2109-2115 Greenspring Drive, LLC, owner of the subject property (“Petitioner”). The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (B.C.Z.R) to permit 41 parking spaces in lieu of the required 57 parking spaces. A site plan was marked as Petitioner’s Exhibit 1.

Edward Brinton and surveyor Bruce Doak appeared in support of the petition. Neil Lanzi, Esq. represented 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), and will be discussed below.

The property is approximately 34,943 square feet and is zoned BM-IM. The commercial property is located in Timonium and is adjacent to I-83. The property is improved with two commercial buildings which Petitioner has owned for approximately 20 years. A design business with associated offices is operated at the site. Petitioner proposes to construct a small (1,200 sq. ft.) addition to one of the buildings, which necessitates variance relief concerning the number of off-street parking spaces provided.

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 a triangular 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 addition. 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, Mr. Brinton testified he has never had a shortage of parking at the business in the 20 years he has owned the property.

The DOP conducted a site visit and has no objection to the requests. That agency indicated two handicapped parking spaces would need to be relocated, and Mr. Doak explained they will in fact be moved to the front of the building and would be designed in accordance with the Regulations. The DOP also requested an opportunity to review architectural elevations prior to issuance of permits, and such a condition will be included in the Order below.

The Bureau of DPR also indicated it did not object to the variance request, although it noted a deficiency exists with respect to the drive aisle width and backing area for certain of the parking spaces. Mr. Doak agreed with DPR's comment, and noted on the plan where the deficiencies exist. He explained the drive aisle is 16 ft. wide in one area while the Regulations (§409.3) require 22 ft. I do not believe that deficiency will impact in any way safe movement throughout the site, and the Bureau of DPR supports granting relief for that condition, which will

be included in the Order below.

DPR also indicated landscape and lighting plans would be required. Petitioner submitted photos of the site and described the existing vegetation and plantings at the property. Mr. Brinton noted cherry trees were planted at the perimeter of the site along with other bushes and landscaping. He also noted the site has been safely and adequately lighted for over 20 years. In these circumstances I do not believe a lighting plan should be required. With respect to the landscaping, I do not believe Petitioner should be required to submit a formal plan for the project, which is after all only a modest addition to one of two large commercial buildings on this site. Instead, I will include a condition that will allow the County's landscape architect to meet with petitioner and its consultants and determine what (if any) additional plantings should be added to the site.

THEREFORE, IT IS ORDERED, this 24th day of February, **2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit 41 parking spaces in lieu of the required 57 parking spaces and a drive aisle width of 16 ft. in lieu of the required 22 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. Prior to issuance of permits Petitioner must submit for approval by the DOP architectural elevations of the proposed building addition.
3. Petitioner shall provide landscaping at the site as determined in the sole discretion of the Baltimore County Landscape Architect.

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