

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(809-810 Gleneagles Court)		
9 th Election District	*	OF ADMINISTRATIVE
5 th Council District		
Minebank, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2017-0191-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Minebank, LLC, owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (B.C.Z.R): (1) to permit a side yard of 10 ft. in lieu of the required 50 ft.; and (2) to permit a rear yard of 10 ft. in lieu of the required 50 ft. A site plan was marked as Petitioner’s Exhibit 1.

Nick Brader, David O’Brien and Tom Pilon appeared in support of the petition. Adam Rosenblatt, Esq. represented the Petitioner. 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 Bureau of Development Plans Review (DPR), concerning landscape and lighting plans for the project.

The property is approximately 8.73 acres and is split-zoned ML-IM and MR-IM. The property is improved with two (2) office buildings which were constructed in 1980. Petitioner proposes to construct an additional building on the site, in which the Goddard School would be operated. The school provides child care (for infants through 5 years of age), and would have 16 classrooms, each with its own teacher.

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 therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to construct the proposed commercial building. 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, as noted by Petitioner, the site is surrounded on all sides by mature trees and abuts the Beltway. This provides an ideal location for ingress/egress and the operation of the facility will not have a detrimental impact upon the community.

THEREFORE, IT IS ORDERED, this 17th day of **March, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance: (1) to permit a side yard of 10 ft. in lieu of the required 50 ft.; and (2) to permit a rear yard of 10 ft. in lieu of the required 50 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 submit for review and approval by Baltimore County landscape and lighting plans for the site.

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