

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(1601 Joppa Road)		
9 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
5 <sup>th</sup> Council District		
Harbor Realty, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	<b>CASE NO. 2017-0203-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Harbor Realty, LLC, owner of the subject property (“Petitioner”). The Petitioner is requesting variance relief from § 405.4.A.1 of the Baltimore County Zoning Regulations (“B.C.Z.R”) for an auto service station site area of 22,320 sq. ft. in lieu of the 24,392 sq. ft. A site plan was marked as Petitioner’s Exhibit 1.

Wayne Newton, Marvin A. Comor, II and Jesse Newman appeared in support of the petition. Dino La Fiandra, 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. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR). Neither agency opposed the requests.

The property is approximately 23,427 sq. ft. and is zoned BL-AS. A fuel service station and service garage has for many years been operated at the site. Due to a change in the industry and consumer preference, automotive repair facilities are less frequently found in connection with gas stations. Instead, fuel service stations now often have a convenience store on site, and that is what Petitioner proposes in this case.

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 an irregular shape, and Petitioner must contend with long-existing site conditions. As such, the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to operate the proposed convenience store. 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.

THEREFORE, IT IS ORDERED, this 24<sup>th</sup> day of **April, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to § 405.4.A.1 of the B.C.Z.R. for an auto service station site area of 22,320 sq. ft. in lieu of the 24,392 sq. 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 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.

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Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:dlw