

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(Salix Ct.)		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
6 <sup>th</sup> Council District		
Wampler Village Partnership	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	<b>CASE NO. 2017-0225-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 the owner of the subject property (“Petitioner”). The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (B.C.Z.R) to permit a setback of front building face to public-street of 15 ft. in lieu of 25 ft. A two-sheet site plan was marked as Petitioner’s Exhibit 1A & 1B.

Susan Clancy, Donna Rolnick and surveyor J. Scott Dallas appeared in support of the petition. John Gontrum, 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), the Bureau of Development Plans Review (DPR) and the Department of Environmental Protection and Sustainability (DEPS). None of the agencies opposed the request.

The property is approximately 20 acres in size and is zoned DR-16. The site is in Middle River, and is improved with a large apartment complex known as the “Townhouses at River’s Gate” (FKA Wampler Village Apartments). Petitioner proposes to construct a two-story addition (approximately 30' x 30') which will be used as a leasing center and fitness facility for the residents. 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 large site is irregularly shaped and is bisected by a public road. As such it is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to construct the proposed improvements. 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 17<sup>th</sup> day of **April, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance to permit a setback of front building face to public-street of 15 ft. in lieu of 25 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 approval by Baltimore County a landscape plan for the subject property.
3. Prior to issuance of permits Petitioner must comply with the Forest Conservation Regulations.

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