

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(7458 German Hill Road)	*	OFFICE OF
12 th Election District		
7 th Council District	*	ADMINISTRATIVE HEARINGS
CGX Life Sciences, Inc.	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	Case No. 2017-0302-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of CGX Life Sciences, Inc., legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: (1) From § 409.8.B.1 to permit use of land in a residential zone (DR 10.5) for a business parking facility; and (2) For such other and further relief as may be required by the Administrative Law Judge for Baltimore County. In addition, a Petition for Variance was filed seeking the following: (1) From § 409.4.C to provide a two-way drive aisle with a width of 14 ft. in lieu of the required 22 ft. for the existing parking spaces; (2) From § 409.8.A.1 to provide design, screening and landscaping to the extent possible where it is not able to conform to the Landscape Manual; and (3) For such other and further relief as may be required by the Administrative Law Judge for Baltimore County. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 2.

Professional engineer Rick Richardson appeared in support of the requests. Andrew H. Robinson, Esq. represented the Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were received from

the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR). Both agencies opposed one or more of the zoning requests.

The subject property is 14,999 sq. ft. (0.344 acres) in size and split-zoned BL, DR 10.5 and DR 1. The site is improved with a two-story brick building which was constructed in 1955. The history of the site is not entirely clear, although Mr. Richardson believes a barber shop was operated at the property in the not-too-distant past. Petitioner proposes to operate a cannabis dispensary at the site, although zoning relief is required before it may do so.

VARIANCES

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).

Mr. Richardson, a professional engineer accepted as an expert, was the sole witness in Petitioner's case. While he explained in detail the site plan he prepared for this project, and documented with photographs (Petitioner's Exhibit 4) the existing conditions and environs, he did not provide testimony which would satisfy the requirements for variance relief under *Cromwell* and similar case law. Under Maryland law, variances should be granted "sparingly" since it is "an authorization for [that] ...which is prohibited by a zoning ordinance." *Cromwell*, 102 Md. App. at 699. In the absence of such evidence the petition for variance must be denied. The petition for special hearing will be dismissed without prejudice in light of the variance denial.

THEREFORE, IT IS ORDERED this 13th day of **July, 2017**, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County

Zoning Regulations (“B.C.Z.R.”) to permit use of land in a residential zone (DR 10.5) for a business parking facility, be and is hereby DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that the Petition for Variance filed pursuant to the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: (1) From § 409.4.C to provide a two-way drive aisle with a width of 14 ft. in lieu of the required 22 ft. for the existing parking spaces; and (2) From § 409.8.A.1 to provide design, screening and landscaping to the extent possible where it is not able to conform to the Landscape Manual, be and is hereby DENIED.

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