

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(2300 Dulaney Valley Road))	*	OFFICE OF
8 th Election District		
3 rd Council District	*	ADMINISTRATIVE HEARINGS
Stella Maris, Inc.	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	Case No. 2017-0341-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 Stella Maris, Inc., legal owner (“Petitioner”). An amended Petition for Special Hearing seeks to increase the ground floor area of an existing, approved nonconforming use (hospice care) by 15%. A Petition for Variance seeks: (1) to permit the proposed development on Lots 2 and 5 to have an impervious surface area of 29% and 55% respectively, in lieu of the maximum 27.5% and 53% approved in case No. 1999-0176-SPHXA; and (2) to permit the proposed building addition to have a height of 78 ft. in lieu of the maximum permitted 35 ft. to match the variance for the existing building approved in Case No. 1999-0176-SPHXA. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Ryan O’Doherty, Richard Abbott and registered landscape architect Michael Fisher appeared in support of the requests. Adam M. Rosenblatt, 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. A substantive Zoning Advisory Committee (ZAC) comment was received from the Bureau of Development Plans Review (DPR), indicating landscape and lighting plans would be required.

The overall Mercy Ridge and Stella Maris campus is in excess of 100 acres in size, and is located in the Timonium area of Baltimore County. This case concerns the Stella Maris hospice complex, which has an existing building area of 141,707 +/- sq. ft. Petitioner proposes to increase the size of the existing building by 20,689 +/- sq. ft., which represents an approximate 15% enlargement. *See Ex. 2.* The expansion will not increase the number of patient beds, which will remain at 412. *See Ex. 1 Site Plan, "General Notes" #5.* Instead, the space will be reconfigured and Petitioner proposes to increase the number of private rooms offered. The subject property is split-zoned DR 10.5 and RC 4, although all of the proposed improvements would be in the RC 4 zone.

SPECIAL HEARING

In a 1999 zoning case involving this property, the Zoning Commissioner found the hospice care facility was a lawful non-conforming use. See Case No. 1999-0176-SPHXA. Under the Regulations, the "ground floor area" of a nonconforming structure or use may be "extended" (i.e., enlarged) by no more than 25%. B.C.Z.R. §104.3. Petitioner seeks a 15% enlargement, and the Petition will therefore be granted.

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. Fisher testified (via proffer) the property is irregularly shaped, split-zoned, and has a significant grade change across the site. As such the property 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 variances 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.

THEREFORE, IT IS ORDERED this 23rd day of **August, 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 an increase in the ground floor area of an existing, approved nonconforming use (hospice care) by 15%, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance: (1) to permit the proposed development on Lots 2 and 5 to have an impervious surface area of 29% and 55% respectively, in lieu of the maximum 27.5% and 53% approved in case No. 1999-0176-SPHXA; and (2) to permit the proposed building addition to have a height of 78 ft. in lieu of the maximum permitted 35 ft. to match the variance for the existing building approved in Case No. 1999-0176-SPHXA, 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 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