

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(11309 Reisterstown Road)		
4 th Election District	*	OF ADMINISTRATIVE
2 nd Council District		
Colonial Stoler, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2018-0150-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Colonial Stoler, LLC, legal owner of the subject property (“Petitioner”). The Petition seeks variance relief from Section 238.2 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a 13 ft. side yard setback in lieu of the required 30 ft. setback. A site plan was marked as Petitioner’s Exhibit 1.

Professional Engineer Richard Matz appeared in support of the petition. Timothy M. Kotroco, 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. No substantive Zoning Advisory Committee (“ZAC”) comments were received from any of the County reviewing agencies.

The site is approximately 4.03 acres in size and zoned BR. A Lexus automobile dealership is operated at the property. The request in this case pertains to the service area of the dealership. At present, customers drive their vehicles under a carport to register for service and repairs. Petitioner would like to enclose this space so customers would be sheltered from the elements. Mr. Matz noted the variance request is in fact from an internal lot line, since Petitioner (or a related entity) also owns the adjoining lot at 11317 Reisterstown Road.

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).

The property is irregularly shaped and is therefore unique. In addition, the property was found to be unique in at least four prior zoning cases dating back to 1974. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to complete the proposed improvements. Finally, I find that the variance can be granted in harmony with the spirit and intent of the BCZR, and in such manner as to grant relief without injury to the public health, safety and general welfare.

THEREFORE, IT IS ORDERED, this 2nd day of **February, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from §238.2 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a 13 ft. side yard setback in lieu of the required 30 ft. setback, 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.

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