

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(7803 Harford Road)		
14 th Election District	*	OF ADMINISTRATIVE
6 th Council District		
DMS Parkville, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2018-0184-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by DMS Parkville, LLC, legal owner of the subject property (“Petitioner”). The Petition seeks variance relief from § 409.8.A.4 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve parking of 4 ft. in lieu of the required 10 ft. from the right of way line of a public street. A site plan was marked as Petitioner’s Exhibit 1.

Professional engineer John Motsco appeared in support of the petition. Francis X. Borgerding, Jr., 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. 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 for the project.

The site is approximately 27,137 sq. ft. in size and zoned BL-CCC. The property is unimproved and was previously used as an MTA bus turn-around. More recently, it was owned by the Revenue Authority and was used for a parking lot. Petitioner purchased the property from the Revenue Authority and proposes to construct a building on the site with a Dunkin Donuts and other retail tenants.

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 has irregular dimensions and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to provide the parking required for the project. 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. The relief requested is modest and involves just over 100 sq. ft. of the overall site. As such, I do not believe granting the request will have any impact whatsoever upon the community.

THEREFORE, IT IS ORDERED, this 12th day of **March, 2018**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 409.8.A.4 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to approve parking within 4 ft. in lieu of the required 10 ft. from the right of way line of a public street, 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