

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(45 Gwynns Mill Ct.)		
4 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
4 <sup>th</sup> Council District		
JSJ Enterprises	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2019-0165-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 JSJ Enterprises, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Sections 409.6.A.2, 409.6.A.3, 409.8.A.4 and 238.2 of the Baltimore County Zoning Regulations (“BCZR”): (1) to permit 13 parking spaces in lieu of the required 21 parking spaces; (2) to permit a side setback of 7 ft. in lieu of the required 30 ft. for a proposed addition to an existing building; and (3) to permit non-residential parking 0 ft. from the right-of-way line of a public street in lieu of the required 10 ft. A site plan was marked as Petitioner’s Exhibit 1.

Shaine Gahan and surveyor Bruce Doak appeared in support of the petition. J. Neil Lanzi, Esquire represented Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. A substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”). That agency did not oppose the requests.

The site is approximately 1.038 acres in size and is zoned ML-IM. The property is improved with a one-story commercial building constructed in 1973. Petitioner has since 1986 operated a ceramic and tile warehouse/showroom at the site, and due to the expansion of the

business additional warehouse space is needed. Petitioner proposes to construct an addition to the existing building, which in turn generates the need for variance relief.

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 narrow and deep (approximately 100' x 400') and is therefore unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because it would be unable to construct the proposed addition. 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. This is demonstrated by the absence of County and/or community opposition.

The DOP expressed in its ZAC comment a concern with “long-term” parking along the south side of the warehouse building. The owner indicated that contractors and other tradesmen frequently park in that area, but do so only for a short time while they make arrangements inside the business for pick up or delivery of a future order. The owner indicating this parking arrangement has existed for many years, and thus I do not believe allowing its continuation would have any adverse impact upon neighboring properties.

THEREFORE, IT IS ORDERED, this 25<sup>th</sup> day of **February, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Sections 409.6.A.2, 409.6.A.3, 409.8.A.4 and 238.2 of the Baltimore County Zoning Regulations (“BCZR”): (1) to permit 13 parking spaces in lieu of the required 21 parking spaces; (2) to permit

a side setback of 7 ft. in lieu of the required 30 ft. for a proposed addition to an existing building; and (3) to permit non-residential parking 0 ft. from the right-of-way line of a public street in lieu of the required 10 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 restore to its present condition all landscaping and/or vegetation affected by the construction project.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

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Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:sln