

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(311 Sollers Point Road)		
12 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
Joseph Corasaniti	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2019-0419-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by Joseph Corasaniti, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Sections 232.2 & 232.1 of the Baltimore County Zoning Regulations (“BCZR”) as follows: (1) to permit a side yard setback of 7.5 ft. in lieu of the required 10 ft.; and (2) to allow a front yard setback of 27 ft. and 20 ft. in lieu of the required 40 ft. A rubricated site plan was marked as Petitioner’s Exhibit 1.

Civil Engineer, William Bafitis appeared in support of the petition. Timothy M. Kotroco, Esq. represented Petitioner. There were protestants and interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”), the Department of Environmental Protection and Sustainability (“DEPS”) and the Bureau of Development Plans Review (“DPW”).

Mr. Kotroco proffered the following facts. His client, Mr. Corasaniti purchased the property at auction. It is a vacant lot upon which he wants to build a storage building to store a couple of antique automobiles as well as an antique steam engine. The plans call for an office and a restroom within the structure. The building will be used for Corasiniti’s personal storage use

only. There will be no commercial use of any kind. This is a use that is permitted as of right in this BL zone. *See*, Petitioner's Exhibit 5.

Mr. Kotroco described the unique features of the property, including the following: It is long and narrow and slightly asymmetrical. It has a public bus stop at the front right corner. Mr. Kotroco submitted a series of aerial photos (Petitioner's Exhibit 2) as well as a series of numbered ground level photos with a corresponding Site Plan (Petitioner's Exhibit 3). Residents of the neighborhood have created a "pocket park" at the front of the property near the bus stop. They have planted a row of evergreen trees which screens this park area from the rest of the lot and they have placed a couple of park benches there. Mr. Kotroco stated that he has spoken with Ms. Edie Brooks, a neighborhood activist, and he has assured her that Mr. Corasiniti will keep the park on the property for the community's use and benefit. Mr. Kotroco noted that several of the trees appear to be dying and he pledged that his client would plant similar trees in their place. He explained that the property is bordered on the front by Sollers Point Road and on the right by Turner Avenue. As a result the lot has "double frontage" under BCZR Sections 232.1 (front yard) and 232.2 (side yard). He explained that they meet the setbacks from Sollers Point Road but they need variance relief from the setbacks from Turner Avenue.

Cheryl James then posed several questions. She owns the home at 110 Turner Avenue, which adjoins the subject property at the rear. She asked how tall the structure would be. The engineer, Mr. Bafitis testified that it will be a one story structure and would be 20' high at the most. Ms. James asked whether landscaping would be planted at the rear of the building to screen it as much as possible from her property. Mr. Bafitis stated that they would move the building up several feet from the rear property line and would plant a landscape screen.

Servant Courtney Speed then testified. She explained that a "charrette" was held for this

neighborhood back in 2003 and that one of the long term planning goals was to encourage local business development that would create jobs for members of the Turner Station community. She observed that this proposed storage structure would not do that. She did concede that the property has sat vacant and undeveloped for many years (Ms. James estimated 15 years). None of the community members in attendance had any questions about the specific setback relief requested in the Petition and none voiced any objections to that specific relief.

I note that in the comments from the Department of Planning, they too point out that the site is in the Eastern Baltimore County Revitalization Strategy plan area, and that “a stated goal of said plan is the promotion of commercial development that *‘stabilizes, strengthens, and diversifies the neighborhood’s economy and improves the economic and visual image of the area.’*” (emphasis in original). In light of this the DOP recommends several conditions for the requested variance relief, including review and final approval by the County Landscape Architect, as well as the use of “solid, quality materials in its construction.” No comment is made concerning the fact that this use will not have any impact on the neighborhood’s economy.

VARIANCE

A variance request involves a two-step legal analysis, 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).

For the reasons explained above, I find that the property is unique. It has an irregular shape, and has a bus stop and “pocket park.” Further it has “double frontage” which necessitates the requested variance relief. If the Regulations were strictly interpreted, Petitioner would experience

a practical difficulty because he would be unable to build the planned storage structure. 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. Although it would have been ideal to have a local business on this property that would create employment for the community the fact is that this property has sat vacant for the last fifteen years. The storage building planned for this site will be a very passive use that will not create any traffic, noise or nuisance of any kind. And, as noted above, this use is permitted by right in this BL zone.

THEREFORE, IT IS ORDERED, this 29th day of **October, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to the Baltimore County Zoning Regulations as follows: (1) to permit a side yard setback of 7.5 ft. in lieu of the required 10 ft.; and (2) to allow a front yard setback of 27 ft. and 20 ft. in lieu of the required 40 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 his 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. Prior to issuance of permits, Petitioner must comply with ZAC comments submitted by DOP, DEPS and DPR, copies of which are attached hereto and made a part hereof.
3. Petitioner shall maintain the “pocket park” at the front of the property except for the portion upon which the driveway is depicted on the rubricated Site Plan.
4. The building will be sited far enough from the rear property line to accommodate a landscape screen between this building and the property at 110 Turner Avenue to the rear.
5. The building will be no higher than 20 feet.

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

____ Signed _____
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County