

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2411-2413 York Road)		
8 th Election District	*	OF ADMINISTRATIVE
3 rd Council District		
2411 York Road, LLC, <i>Legal Owner</i>	*	HEARINGS FOR
Dr. Christine W. Gernhart,		
<i>Contract Purchaser</i>	*	BALTIMORE COUNTY
Petitioners	*	CASE NO. 2019-0458-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by 2411 York Road, LLC, legal owner of the subject property and Dr. Christine W. Gernhart, contract purchaser (“Petitioners”). Petitioners are requesting variance relief from Section 303.2 of the Baltimore County Zoning Regulations (“BCZR”) to allow front yard depth of 10 feet which is less than the average depth of front yards of all lots within 100 feet on each side (16 feet to south and 26 feet to north for an average of 21 feet). A site plan was marked as Petitioners’ Exhibit 1.

Dr. Gernhart appeared in support of the petition and was accompanied by Rick Richardson, the engineer who designed and drafted the Site Plan. Edward J. Gilliss, Esq. represented Petitioners. 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 request.

Mr. Gilliss proffered the following: Dr. Gernhart currently operates the Timonium Animal Hospital at 1626 York Road, several blocks south of this proposed site. Due to the growth of her veterinary practice Dr. Gernhart wishes to expand her facility. She has purchased the two vacant

residences at 2411 and 2413 York Road and intends to raze the two structures and construct her new expanded veterinary facility. The setback variance is necessary in order for the site to accommodate both the new facility and adequate parking for her clients. The lot at 2411 York Road is approximately 8,650 square feet and the lot at 2413 York Road is approximately 10,224 square feet in size and both are zoned BL, which permits this use as of right.

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).

This property consists of two adjoining irregularly shaped parcels that are currently occupied by vacant residences. This area of York Road was largely residential when these houses were built but has become primarily commercial over the years. As such, the site is unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to build the veterinary facility and parking they need to accommodate Dr. Gernhart's expanding practices. Further, 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. In fact, as noted by Mr. Gilliss, this new veterinary facility will be an asset to the Timonium community and Dr. Gernhart is investing substantial resources in this project in order to keep her veterinary practice in Baltimore County. In addition, the ZAC comments concerning landscaping at the site are already being addressed by the engineer, as evidenced by the Schematic Landscape Plan that was admitted as Petitioners' Exhibit 2. Finally, I note that there was no community opposition.

THEREFORE, IT IS ORDERED, this 15th day of **November, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to the Baltimore County Zoning Regulations to allow front yard depth of 10 feet which is less than the average depth of front yards of all lots within 100 feet on each side (16 feet to south and 26 feet to north for an average of 21 feet), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
2. Prior to issuance of permits Petitioners must comply with ZAC comment received from the DOP, a copy of which is attached hereto and made a part hereof.

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

PMM/sln