

IN RE: PETITION FOR VARIANCE
N and S sides of Sister Pierre Drive,
367 feet W of York Road
9th Election District
5th Councilmanic District
(7601 Osler Drive)

John K. Tolmie, President and CEO
St. Joseph Medical Center, Inc.
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **CASE NO. 2009-0028-A**

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owner of the subject property, St. Joseph Medical Center, Inc., by John K. Tolmie, President and Chief Executive Officer. Variance relief is requested as follows:

- From Section 1B01.2.C.1.a of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit front yard setbacks a minimum of 11 feet in lieu of the required 40 feet; and
- From Section 1B01.2.C.1.a of the B.C.Z.R. to permit interior side yard setbacks a minimum of 6 feet on both sides of the building in lieu of the required 20 feet; and
- From Section 1B01.2.C.1.a of the B.C.Z.R. to permit rear yard setback a minimum of 10 feet in lieu of the required 30 feet; and
- From Section 301.1.A of the B.C.Z.R. to permit open projections (carport) to extend into the front yard a maximum of 60% (or 24 feet) in lieu of the permitted 25% (or 10 feet), and a 16 foot setback in lieu of 30 feet.

As explained in greater detail below, during the subject hearing, Petitioner revised its request, withdrawing the first and fourth variances identified above, and I accepted the revised petition language into evidence as Petitioner’s Exhibit 2. The subject property and revised requested

relief are more particularly described on a redlined site plan, which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the variance request were David Karceski, Esquire and Christopher Mudd, Esquire, attorneys for Petitioner. Also appearing in support of the requested relief were Patricia Bosse, Vice President of Mission & Institutional Advancement for St. Joseph Medical Center, Inc., Jason Winters, with CR Goodman Associates, Petitioner's project architect, and David Locke, with Morris & Ritchie Associates, Inc., the engineer who prepared the redlined site plan. Also in attendance were Richard A. Cobert, a representative of the Baltimore County Department of Economic Development, and Courtney Schackelford, who indicated that she was attending as a disinterested observer. As there were no Protestants appearing in opposition to the requested relief, the hearing proceeded on a proffer from Mr. Karceski.

Testimony and evidence offered revealed that the subject property consists of the 37 acre St. Joseph Medical Center campus that is located adjacent to and on the east side of Osler Drive, south of St. Joseph Hospital Drive, in the Towson area of Baltimore County. The medical center site also has frontage along York Road, between Yorkleigh Road and Cross Campus Drive. It was explained that only a small portion (0,85 acre) of the overall medical center campus is the subject of the requested zoning relief. This subject site is predominantly zoned O.R.1 and is located on the north side of Sister Pierre Drive -- a private access drive for the medical center -- just west of where Sister Pierre Drive intersects with York Road. As shown on the site plan and the aerial photograph that was marked and accepted into evidence as Petitioner's Exhibit 3, both the overall medical center campus and the smaller subject site are uniquely shaped. The campus is triangular-shaped along its Osler Drive frontage, with a "panhandle" extension eastward to York Road, while the subject site forms a narrow "tooth" northward off the panhandle.

The St. Joseph Medical Center has been at this Towson location for many years, and it was explained that there has been a recent influx of much-needed redevelopment for the medical center. Marked and accepted into evidence as Petitioner's Exhibits 6A through 6G were photographs of several new buildings and improvements completed by the medical center in recent years. It was further explained that, while the medical center continues to grow and demand for additional services increases, there is only a finite amount of space on the campus for improvements for such services. Among that limited space is the 0.85 acre subject site, which, as shown on in the photograph depicting the existing site that was marked and accepted into evidence as Petitioner's Exhibit 4, is presently improved with a parking lot and a small office building. It is on this subject site that Petitioner proposes to construct a new building that will add a much needed service to the medical center campus.

Specifically, Petitioner proposes to construct a new building for what is known as a "Hackerman-Patz House," which, as explained on an overview and use description summary marked and accepted into evidence as Petitioner's Exhibit 5, is a facility for overnight stay on the campus for patients and their families receiving medical care at St. Joseph Medical Center. The use is akin to a Ronald McDonald House, and other similar facilities, where patients of Petitioner or their families, who may not live in proximity to the medical center, can stay in a comfortable facility with adequate amenities right on the medical center campus. Petitioner's architect has designed the Hackerman-Patz House, as shown on the color elevations marked and accepted into evidence as Petitioner's Exhibit 10, to include 19 patient/visitor rooms and one room for a facility manager. Petitioner's representatives indicated that the Hackerman-Patz House will be a valuable service to patients and their families, who need to travel long distances to the medical center's excellent regional medical services, including its cancer, heart, orthopedic, and neo-natal intensive care centers.

The requested variance relief pertains to required minimum yard area setbacks for the Hackerman-Patz House. Petitioner's redlined site plan indicates the need for the setback variances for the side and rear yard areas for the building. The petition for variance initially filed included additional variances for the front yard area; however, Mr. Karceski explained that no front yard area variances are required to accommodate the Hackerman-Patz House, resulting in a reduction of the number of variances requested by Petitioner. Therefore, as shown on the redlined site plan, the only variances still remaining for consideration are the rear yard setback a minimum of 10 feet and the side yard setback a minimum of 6 feet (variances are required for the side yards on both sides of the building -- a minimum of 6 feet on the east side and a minimum of 8 feet on the west side).

As I indicated during the hearing, these requested variances are minor in nature, especially when viewed in the context of the tremendous use for which they are requested. Indeed, there is no doubt amongst Baltimore County officials and the community alike that the Hackerman-Patz House is a much-needed use that will provide excellent benefits to the community at large. Marked and accepted into evidence as Petitioner's Exhibit 7 was a Zoning Advisory Committee comment from the Office of Planning that indicates that Office "supports the proposed comprehensive upgrades to the subject property and facility and does not oppose the petitioner's setback requests." Likewise, during the hearing, Mr. Cobert, of the Baltimore County Department of Economic Development, expressed his Department's support for the use and the request for zoning relief. Additionally, marked and accepted into evidence as Petitioner's Exhibit 8 was a letter from the President of the Greater Towson Council of Community Associations, an umbrella group that represents the interests of numerous local neighborhood associations, indicating that his Association "supports the construction of the Hackerman-Patz House" and "has no objection to the Petition for Variance." Lastly, I received a

copy of minutes from a meeting of the Rodger's Forge Community Association that was marked and accepted into evidence as Petitioner's Exhibit 9 and also indicated no objections to the requested variances.

After due consideration of the testimony and evidence presented, it is clear that the setback variances, as shown on Petitioner's Exhibit 1, are appropriate and, having met the standards set forth in Section 307 of the B.C.Z.R. should be granted. The overall 37 acre medical center campus is unique by virtue of its use and the multiple services it provides, as well as its physical characteristics, including its overall size and irregular shape. Furthermore, the 0.85 acre subject site is itself unique, due to its frontage on two existing interior access roads and its irregular configuration, where it is widest along its Sister Pierre Drive frontage and then tapers towards its northern boundary. These existing site characteristics drive the need for the variances. It was also established that strict compliance with the B.C.Z.R. would result in a practical difficulty and unreasonable hardship for Petitioner. Requiring Petitioner to adhere to the setbacks required under the B.C.Z.R. would make it impossible for Petitioner to construct and operate the Hackerman-Patz House in order to fulfill the needs for which it is intended.

Finally, there is no evidence that the grant of the relief would be detrimental to the surrounding area – indeed, the Hackerman-Patz House will be replacing a parking lot and an older building with a well-designed new building that incorporates a residential appearance to complement the residential uses to the south of the medical center campus. A review of the elevations of the proposed Hackerman-Patz House confirms that the new building will provide a significant upgrade for this portion of Petitioner's campus, and, similar to the numerous improvements Petitioner has made throughout its campus over the past few years, will provide a real asset to the surrounding community. Therefore, I am persuaded to grant the requested relief.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by Petitioner, I find that Petitioner's variance requests should be granted.

THEREFORE, IT IS ORDERED this 12th day of November, 2008 by this Deputy Zoning Commissioner that Petitioner's variance relief as follows:

- From Section 1B01.2.C.1.a of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit interior side yard setbacks a minimum of 6 feet on both sides of the building in lieu of the required 20 feet; and
- From Section 1B01.2.C.1.a of the B.C.Z.R. to permit rear yard setback a minimum of 10 feet in lieu of the required 30 feet,

be and are hereby GRANTED. The relief granted herein shall be subject to the following:

1. Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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

____SIGNED_____
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz