

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
W side of Washington Blvd., 325 feet S	*	DEPUTY ZONING
of Sulphur Spring Road	*	COMMISSIONER
13 <sup>th</sup> Election District	*	FOR BALTIMORE COUNTY
1 <sup>st</sup> Councilmanic District	*	CASE NO. 2009-0200-A
(3928 Washington Blvd.)		
<b>3928 Washington Boulevard, LLC</b>		
<i>Petitioner</i>	*	

\* \* \* \* \*

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by Gary Cearfoss on behalf of the legal owner of the subject property, 3928 Washington Boulevard, LLC. Variance relief is requested as follows:

- From Section 238.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a building setback of 35 feet in lieu of the required 50 feet from the property line; and
- From Section 238.2 of the B.C.Z.R. to permit side and rear yard setbacks of a minimum of 5 feet in lieu of the required 30 feet.

The subject property and requested relief are more fully described on the 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 requests were Petitioner Gary Cearfoss with 3928 Washington Boulevard, LLC, John B. Gontrum, Esquire attorney for Petitioner, and Rick Richardson, the professional engineer who prepared the site plan. There were no Protestants or other interested persons in attendance at the public hearing.

Testimony and evidence offered revealed that the subject property is an irregular-shaped property containing approximately 0.543 acres of land zoned B.R. The property is located on the north side of Washington Boulevard near the intersection of Sulphur Spring Road in the Halethorpe area of Baltimore County. Petitioner submitted a series of photographs, which were

marked and accepted into evidence as Petitioner's Exhibits 2A-H. The photographs, along with the site plan, reveal that the property is improved with an existing 1,189 square foot one-story structure that is connected to the north side of a larger 2,137 square foot two-story office building. The existing structures are located west of a parking area that occupies the majority of the center of the property. The office building, which is an attractive structure as depicted in several of the submitted photographs, is accessed from the south via a paved driveway that connects to Washington Boulevard.

Further evidence revealed that this commercial property contains the primary office for Steel Building Specialists, a company that constructs and maintains steel structures for commercial clients. Petitioner is now proposing to construct a one-story 1,584 square foot warehouse building in the northeast corner of the subject property. Petitioner submitted a rendering of the proposed structure, which was marked and accepted into evidence as Petitioner's Exhibit 3. Similar to a model home in a new development, the proposed steel structure will essentially demonstrate the type of work that Steel Building Specialists performs for its clients, while also providing an additional area for storage of materials for the business. Petitioner's Exhibits 2E and 2F depict the area where the proposed structure would be located. The large gum tree on the right side of the photographs would not be removed and would continue to provide coverage and separation between the proposed building and the existing structures on the neighboring property.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated March 10, 2009, which indicate that the existing building has an attractive appearance. The proposed building will be visible from Washington Blvd. The proposed building should be required to be architecturally

compatible with the existing building. Submit architectural elevations with building materials specified to the Planning Office for review and approval. Comment was also received from the State Highway Administration dated February 20, 2009, which indicated that additional improvements or expansion of the use would require reconstructing the entrance to meet current State Highway Guidelines for Access to Commercial Property. Therefore, SHA requests that the County require the applicant to obtain an SHA Access Permit as a condition of granting the relief.

Considering all of the testimony and evidence presented, I am convinced that the variance requests should be granted. It should be noted that the variance relief requested under Section 238.1 of the B.C.Z.R. seeks only to legitimize the 35-foot setback that currently exists between the office building and Washington Boulevard. The relief sought under Section 238.2 of the B.C.Z.R. seeks approval for a 5 foot setback that will be created by the construction of the proposed one-story warehouse building in the northeast section of the property.

Initially, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance requests. The property is irregularly shaped and uniquely constrained by topography and the existence of a large storm drain pipe running diagonally through the center of the property. Testimony at the public hearing also revealed that Petitioner has a friendly working relationship with the owner of the irregular-shaped parcel that lies to the east and north of the subject property. In fact, Petitioner consented to the neighboring owner constructing a now existing warehouse building that is set back only 4.7 feet from the northeast corner of the subject property. Due to the close working relationship that these neighbors maintain, I find the 5 foot setback that would be created by the proposed structure can be granted without causing any inconvenience or harm to the surrounding locale. The property lies in a commercial district where the properties are used to support local businesses. I am

convinced that granting this variance will benefit Steel Building Specialists without having any negative impact on neighboring properties.

I also find that the imposition of zoning on this property disproportionately impacts the subject property as compared to others in the zoning district. Testimony revealed that the subject property is essentially built into a hill that places severe limitations on the potential location of the proposed building. The potential location is further limited by the existence of a large storm drain pipe marked with a diagonal broken line on the site plan. Thus, I find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship since Petitioner would be unable to obtain any additional storage space to assist the business. Finally, I find that these variance requests can be granted in strict harmony with the spirit and intent of said regulations, and in such a manner as to grant relief without injury to the public health, safety and general welfare.

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

THEREFORE, IT IS ORDERED this 16<sup>th</sup> day of April, 2009 by this Deputy Zoning Commissioner, that Petitioner's Variance requests as follows:

- From 238.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a building setback of 35 feet in lieu of the required 50 feet from the property line; and
- From 238.2 of the B.C.Z.R. to permit side and rear yard setbacks of a minimum of 5 feet in lieu of the required 30 feet

be and are hereby GRANTED, subject to the following restrictions which are conditions precedent to the relief granted herein:

1. Petitioner is advised that it may apply for any required building permits 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.
2. Petitioner shall submit architectural elevations with building materials specified to the Office of Planning for review and approval prior to issuance of any building permit.
3. Petitioner must comply with the SHA comment by obtaining an SHA Access Permit in order to expand the existing use of the property.

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