

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
N Side of Church Lane, 81' E of		
c/l of Products Drive	*	OFFICE OF ADMINISTRATIVE
8 th Election District		
3 rd Council District	*	HEARINGS FOR
(152 Church Lane)		
	*	BALTIMORE COUNTY
152 Church Lane, LLC		
<i>Petitioner</i>	*	CASE NO. 2011-0309-A
* * * * *		

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for Baltimore County for consideration of a Petition for Variance filed by the legal owner of the property, 152 Church Lane, LLC. The Petitioner is requesting Variance relief under Sections 255.1 and 303.2 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a side yard setback of 4 feet in lieu of the required 30 feet and to permit a front yard depth of 14.33 feet in lieu of the required 11.2 feet. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the public hearing in support of the variance request were Petitioner Benjamin Marcantoni, Managing Member of 152 Church Lane, LLC and Patrick C. Richardson, Jr. with Richardson Engineering, LLC, the professional engineer who prepared the site plan. C. William Clark, Esquire with Nolan, Plumhoff & Williams, Chtd., attended the hearing as attorney for the Petitioner. The file reveals that the Petition was properly advertised and the site was properly posted as required by the B.C.Z.R. There were no Protestants or other interested persons in attendance.

Testimony and evidence offered revealed that the subject property is located near the Home Depot in Cockeysville, and is zoned ML-IM. The property is improved by a house (which is vacant and somewhat dilapidated) and one story garage, both of which Petitioner plans to raze.

In their place, Petitioner seeks to construct an 880 square feet office building and a 2,000 square feet warehouse building, both one (1) story structures.

The Zoning Advisory Committee (ZAC) comments were received and are made a part of the record of this case. No adverse comments were received from any of the County reviewing agencies.

Considering all of the testimony and evidence presented, I am persuaded to grant the requested variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Specifically, the dimensions of the lot are 135 feet deep by 75 feet wide. To begin with, this is an extremely small lot in an ML zone. In these circumstances, if the applicable provisions of the B.C.Z.R was enforced (§ 238.1), the Petitioner would be left with only a 15 foot wide “building envelope.” The Petitioner - who operates a construction company and storage yard – would experience a practical difficulty if the B.C.Z.R was strictly enforced, since large construction vehicles and trailers could not access the site or turn around on the premises unless the proposed buildings are located on one side or another of the lot.

With regard to the front yard depth variance, the “required” 11.2 feet results from the “averaging” calculation of B.C.Z.R 303.2, and the figures are skewed because the adjoining structures, like the house on the subject property, are located extremely close to Church Lane. The reality is that the proposed one story office building will be set back over 14 feet from Church Lane, whereas the porch of the existing two story dwelling is just 10 feet from the road. In these circumstances, the variance relief will allow for the construction of a modern yet modest office building more in keeping with the current standards.

I further find that the granting of the relief as set forth herein can be accomplished without injury to the public health, safety, and general welfare. Therefore, in all manner and form, I find

that variance relief can be granted in accordance with the requirements of Section 307 of the B.C.Z.R. as articulated in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

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 request should be granted.

THEREFORE, IT IS ORDERED, this 9th day of June, 2011 by this Administrative Law Judge that Petitioner's Variance request from Sections 255.1 and 303.2 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a side yard setback of 4 feet in lieu of the required 30 feet and to permit a front yard depth of 14.33 feet in lieu of the required 11.2 feet, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioner may apply for a building permit and may be granted same upon receipt of this Order, however the Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the thirty (30) day appellate process from this Order has expired. If for whatever reason, this Order is reversed, the Petitioner will 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 _____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:pz