

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
W side of Belair Road, 53 feet SW of	*	OFFICE OF
Putty Hill Avenue		
14 th Election District	*	ADMINISTRATIVE HEARINGS
6 th Councilmanic District		
(8032 Belair Road)	*	FOR BALTIMORE COUNTY
8032 Belair Road, LLC, <i>Legal Owner</i>	*	
Robert Stichel, <i>Contract Purchaser</i>		
Petitioners	*	Case No. 2011-0342-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed by 8032 Belair Road, LLC, the legal property owners, and Robert Stichel, the contract purchaser. Petitioners are requesting Variance relief from Sections 409.6.2, 409.8.A.4 and 409.4.A of the B.C.Z.R. to permit 10 parking spaces in lieu of the required 31 spaces, to permit parking spaces as close as 5 feet from a street right-of-way in lieu of the required 10 feet, and to permit a one-way travel lane 8 feet wide in lieu of the required 12 feet, respectively. In the alternative, Petitioners are requesting Special Hearing relief in accordance with Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve Petitioners' Exhibit #1 as a "modified parking plan" pursuant to Section 409.12 of the B.C.Z.R. The subject property and requested relief are more fully described on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the public hearing in support of the requested relief were David Ferrara, Sr. for 8032 Belair Road, LLC, Robert Stichel, and David Billingsley with Central Drafting & Design, Inc., who is assisting the Petitioners in the process.

It should be noted that this matter came to the OAH as a result of a complaint registered with the Code Enforcement Division of the Department of Permits, Approvals and Inspections¹. A Code Inspections and Enforcement Correction Notice was issued to Petitioner April 26, 2011, for failure to obtain the required building permits and inspections. Hence, Petitioner filed for variance relief which, if granted, would render moot the Code Enforcement citation.

Testimony and evidence revealed that the subject property is zoned BL-AS (with an extremely small portion zoned DR 5.5) and is situated at the corner of Belair Road and Putty Hill Avenue. The site for many years was used as a grain and feed store known as Lingard E. Klein Co. See Petitioner's Exhibit 6. That operation continued until some time in 1999, at which time the property was purchased by 8032 Belair Road, LLC. At present, the two story office building on the site is occupied by an insurance business and an internet vendor that sells baskets and related items. The one story retail portion of the site, comprising approximately 3,500 square feet, is being leased by Mr. Stichel, who proposes to sell crabs and seafood at the location. Mr. Stichel testified that of that space, only about 500 square feet would be dedicated to the retail sale of seafood, with the remaining square footage used for coolers, sinks, steamers and other equipment to receive and prepare the seafood for sale. Even so, Baltimore County zoning officials informed Mr. Stichel the parking calculations for the use would deem the entire 3,500 square feet dedicated to retail sales.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition from any Baltimore County agency or other recommendations concerning the requested relief.

¹ Case No: CO-0092360

After due consideration of the testimony and evidence presented, I am persuaded to grant the variance relief requested.

As to the variance request, 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 site and parking have remained unchanged for nearly 10 years, and there was no testimony or evidence presented to suggest a parking shortage has existed at the location. In addition, the retail feed store occupied the entire first floor area with goods and merchandise, and in all probability was a more intense retail commercial use than a seafood market, which will not even be open all year round. None of the adjoining businesses opposed the request, which is further evidence that the on-site parking is sufficient and has not spilled over onto adjoining lots.

I further find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship inasmuch as Mr. Stichel would be unable to operate his store. Finally, I find the variance can be granted in strict harmony with the spirit and intent of said regulations, and in such 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 held, and after considering the testimony and evidence offered, I find that Petitioners' variance requests should be granted.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County this 13 day of July, 2011 that Petitioners' Variance request from Sections 409.6.2, 409.8.A.4 and 409.4.A of the B.C.Z.R. to permit 10 parking spaces in lieu of the required 31 spaces, to permit parking spaces as close as 5 feet from a street right-of-way in lieu of the required 10 feet, and to permit a one-way travel lane 8 feet wide in lieu of the required 12 feet respectively, be and is hereby GRANTED;

IT IS FURTHER ORDERED that Petitioners' Special Hearing request in accordance with Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) is DISMISSED AS MOOT, given the above grant of variance relief.

The relief granted herein is subject to the following condition:

1. Petitioners are advised that they may apply for any required building permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If for whatever reason, this Order is reversed, Petitioners 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
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:pz