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| IN RE: PETITION FOR VARIANCE | * | BEFORE THE |
| N side of Baltimore National Pike; | | |
| 1,275' W of the c/line of Rolling Road | * | OFFICE OF |
| 1 st Election District | | |
| 1 st Council District | * | ADMINISTRATIVE HEARINGS |
| (6408 Baltimore National Pike) | | |
| | * | FOR |
| 6408 BNP, LLC, <i>Legal Owner</i> | | |
| Enterprise RAC Company of Baltimore, | * | BALTIMORE COUNTY |
| LLC, <i>Contract Lessee</i> | | |
| | * | CASE NO. 2012-0180-A |
| Petitioners | | |

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Variance filed by the legal owner, 6408 BNP, LLC, and the contract lessee, Enterprise RAC Company of Baltimore, LLC, the (“Petitioners”). The Petition for Variance seeks variance relief from Section 238.2 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a side yard setback of zero (0) feet in lieu of the required 30 feet. 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 Jack Wright and James Gibeaut of Enterprise RAC Company of Baltimore, LLC, and Patrick C. Richardson, Jr. with Richardson Engineering, LLC, the consulting firm that prepared the site plan. Patrick Roddy, Esquire with Rifkin, Livingston, Levitan & Silver appeared as attorney for the Petitioners. There were no Protestants or other persons in attendance.

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

Testimony and evidence revealed that the subject property consists of 0.528 acres and is zoned BR-AS. The site is improved with a one-story commercial building which was once used as a restaurant. The property is vacant at this time. Enterprise Rent-A-Car desires to lease the building and occupy the site with a car rental business. They also seek zoning approval to enclose the canopy on the west side of the building where they intend to vacuum and wash rental vehicles when they are returned by customers. In order to enclose the canopy, variance relief is needed.

Based on the evidence presented, I find that the variance can be granted in such a manner as to meet the requirements of Section 307 of the B.C.Z.R., as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995). I find based on the testimony presented that the property is unique. I also find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioner.

Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., 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 request should be granted.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County this 20th day of March, 2012 that the Petition for Variance relief from Section 238.2 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a side yard setback of zero (0) feet in lieu of the required 30 feet, be and is hereby GRANTED.

The relief granted herein is subject to the following condition:

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 the 30-day appeal period from the date of 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
TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/dlw