

<b>IN RE: PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
N/side of York Road, 16' N of c/line of	*	OFFICE OF
Monkton Road		
<b>(16928 York Road)</b>	*	ADMINISTRATIVE HEARINGS
3 <sup>rd</sup> Election District		
7 <sup>th</sup> Council District	*	FOR
Kary Holdings, LLC, <i>Legal Owners</i>	*	BALTIMORE COUNTY
Craig Longenecker, <i>Contract Purchaser</i>		
Petitioners	*	<b>CASE NO. 2012-0236-SPHA</b>

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**ORDER AND OPINION**

This matter comes before the Office of Administrative Hearings (OAH) as Petitions for Special Hearing and Variance filed by the legal owners of the subject property, Kary Holdings, LLC, by Kathy L. Wheatley, Member. The Petitioners are requesting Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to abandon the special hearing relief granted for the inside storage of equipment and materials as part of a carpentry, plumbing and heating shop. The Petitioners are also seeking variance relief from Section 409.6.A.2 of the B.C.Z.R., to permit 12 parking spaces in lieu of the required 18 parking spaces. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 2.

Appearing at the public hearing held for this case were Craig Longenecker, contract purchaser, and Bruce E. Doak, with Gerhold, Cross & Etzel, Ltd., the firm that prepared the site plan. J. Neil Lanzi, Esquire appeared as counsel and represented Petitioners. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. There were no Protestants or other interested persons in attendance, and the file does not contain any letters of opposition or protest.

The Zoning Advisory Committee (ZAC) comments were received and made a part of the file. A ZAC comment was received from the Department of Planning, dated April 17, 2012, indicating no opposition; however, that Department also commented that 12 parking spaces in lieu of 18 is a justifiable proposal and will not negatively impact the operation of the business or surrounding community.

Testimony and evidence revealed that the subject property, or at least the portion fronting on York Road, was constructed in the late 1800's or early 1900's. In the 1990's the original structure was expanded and the addition was constructed with historically appropriate materials and design. *See* Exhibit 4. The Petitioner, a dentist, wants to purchase the property and relocate his dental practice, which is presently located nearby at 16918 York Road. The Petitioner testified the purchase price of the property was \$600,000, and another \$200,000 to \$300,000 in interior improvements are planned. No exterior changes of any sort are proposed.

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 special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Indeed, as Mr. Doak (who was accepted as an expert in zoning and land use matters) testified, the subject property is narrow and long, which is quite unlike the layout and configuration of adjoining lots. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioners, given that Dr. Longenecker would be unable to relocate his dental office – a permitted use in the zone – to the property. In addition, Dr. Longenecker testified the 12 parking spaces would be more than sufficient for his practice. He advised he has four employees, and will often see just three patients a day.

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. This is demonstrated by the absence of community opposition and County reviewing agencies. In fact, the local businesses and community associations submitted letters indicating their support for the project and the variance relief.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions, and for the reasons set forth above, the variance relief requested shall be granted. In addition, the special hearing relief granted in Case No. 03-369-SPHA (for inside storage of equipment and materials for a carpentry shop) shall be deemed abandoned.

THEREFORE, IT IS ORDERED, this 8<sup>th</sup> day of May, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing seeking relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to abandon the special hearing relief granted in Case No. 03-369-SPHA, for the inside storage of equipment and materials as part of a carpentry, plumbing and heating shop, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 409.6.A.2 of the B.C.Z.R., to permit 12 parking spaces in lieu of the required 18 parking spaces, be and is hereby GRANTED.

The relief granted herein shall be conditioned upon and subject to the following:

1. The Petitioners may apply for any required permits and may be granted same upon receipt of this Order; however the Petitioners are hereby made aware that proceeding at this time is at their 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 Petitioners 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.

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:dlw