

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
W/side of York Road, 1,220' N of the	*	OFFICE OF
c/line of Bosley Avenue		
(950 York Road)	*	ADMINISTRATIVE HEARINGS
9 th Election District		
5 th Council District	*	FOR
Ferdinand H. Onnen, Jr., <i>Legal Owner</i>	*	BALTIMORE COUNTY
Patient First, <i>Contract Purchaser/Lessee</i>		
Petitioners	*	CASE NO. 2012-0303-SPHA

* * * * *

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings (OAH) as Petitions for Special Hearing and Variance filed by Deborah C. Dopkin, Esquire on behalf of the legal owner, Ferdinand H. Onnen, Jr., and the contract purchaser/lessee, Patient First (the “Petitioners”). The Petitioners are requesting Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to determine whether or not the Administrative Law Judge should approve business parking in a residential zone, including access to that business parking through a residential zone, and to vacate Case No. 65-52-XA, pursuant to B.C.Z.R. Section 409.8.B. The Petitioners are also seeking variance relief from the B.C.Z.R. as follows:

1. Section 238.2, for a side yard of as little as 15' in lieu of the required 30',
2. Section 409.8.A.1, to permit a landscape buffer of 0' in lieu of the required 10', and
3. Section 450.4 Attachment 1.3.a, to permit a freestanding directional sign including a company name and logo greater than 30% of the sign face.

The subject property and requested relief is more fully depicted on the redlined site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the public hearing held for this case were Beth Plavner of the Johns Hopkins Health System, and Richard E. Matz with Colbert Matz Rosenfelt, Inc., the professional engineer who prepared the site plan. The Petitioners were represented by Deborah C. Dopkin, Esquire with Deborah C. Dopkin, P.A. There were no Protestants or other interested persons in attendance. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

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 on July 3, 2012, which stated Planning does not oppose the Petitioners' requests; however, the conditions and recommendations made by the Baltimore County Design Review Panel (DRP) shall be adhered to and should be made part of any relief granted. The Petitioners submitted the minutes from the DRP, and indicated they would obviously comply with each of the requirements specified therein. See Exhibit 5.

In addition, a ZAC comment was received from the State Highway Administration (SHA), dated June 12, 2012, which indicated the applicant must contact the SHA to obtain an entrance permit.

Testimony and evidence revealed that the subject property is 0.7708 acres (33,574 square feet) and is split-zoned BR and DR 5.5. The DR zoned portion of the property is very small; the proposed one story building would be situated entirely on BR zoned property. The Petitioners propose to open a Patient First walk in medical clinic on the site that was used for many years by the Towson Car Wash. Ms. Plavner indicated that if the project is approved, the clinic would be operational in 2014.

Based on the evidence presented, I find that the variances 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. As Mr. Matz testified, the project is subject to revitalization zone and DRP requirements, which renders the property unique.

I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship, given that Petitioners would be unable to construct the medical clinic as designed, nor would the School System receive the benefit of the roadway improvements to Carver School Road, which Mr. Matz valued at approximately \$250,000.

Finally, as discussed earlier, 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. The site, while not an eyesore, is abandoned and unattractive, which is especially problematic given that this is a prime location immediately off of York Road, on the entrance to Towson. The new Patient First clinic, which Ms. Plavner noted would be the fortieth such facility, will be attractively designed with high quality materials and finishes (See Exhibit 4) and will be a welcome addition to the Towson community.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions, and for the reasons set forth above, the special hearing and variance relief requested shall be granted.

THEREFORE, IT IS ORDERED, this 19 day of July, 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 determine whether or not the Administrative Law Judge should approve business parking in a residential zone, including

access to that business parking through a residential zone, and to vacate Case No. 65-52-XA, pursuant to B.C.Z.R. Section 409.8.B, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the requested variance relief from the B.C.Z.R. as follows:

1. Section 238.2, for a side yard of as little as 15' in lieu of the required 30',
2. Section 409.8.A.1, to permit a landscape buffer of 0' in lieu of the required 10', and
3. Section 450.4 Attachment 1.3.a, to permit a freestanding directional sign including a company name and logo greater than 30% of the sign face,

be and are 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.
2. Petitioners shall comply with the ZAC comments provided by the Department of Planning and the recommendations of the Baltimore County Design Review Panel, which were marked in the case file as Petitioners' Exhibit 5.

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