

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
NW/side of Pulaski Highway, 562' W c/line	*	OFFICE OF
Intersection of Allender Road		
(11424 Pulaski Highway)	*	ADMINISTRATIVE HEARINGS
11 th Election District		
5 th Council District	*	FOR BALTIMORE COUNTY
Ronald W. Parker	*	CASE NO. 2012-0325-SPHA
Petitioner		

* * * * *

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings (OAH) as Petitions for Special Hearing and Variance filed by the legal owner of the property, Ronald W. Parker. The Petitioner is requesting Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to amend the site plan filed in Case Nos. 5378, 72-36-X, 83-124-SPHA, 2010-0006-SPHA and 2011-0287-SPHA, by reducing the proposed tractor and trailer repair building to 40' x 65', and to remove the proposed breezeway from the proposed one-story 578 square foot addition to the proposed tractor and trailer repair building. The Petitioner is also seeking variance relief from Sections 255.1, 102.2 and 238.2 of the B.C.Z.R. to allow a building to building setback of 15' in lieu of the required 60'. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the public hearing held for this case was Robert Infussi with Expedite, LLC, who is assisting the Petitioner through the permitting process, and William Bafitis with Bafitis & Associates, Inc., the professional engineer who prepared the site plan. 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 24, 2012, which indicates as follows:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The petitioner is seeking a special hearing to amend the site plan from previous special hearing cases, most recently SPH # 2011-0287, to reduce the proposed tractor and trailer repair building to 40' by 65'. The petitioner is also seeking a special hearing to remove the proposed breezeway from the proposed 1-story addition to the proposed tractor and tractor repair building. Lastly, the Petitioner seeks a variance to allow a building-to-building setback of 15' in lieu of the required 60'.

The Department of Planning does not oppose the petitioner's special hearing requests for a reduction of the repair building and the removal of the previously approved breezeway. Furthermore, the Department of Planning does not oppose the petitioner's request for a variance as the building-to-building setback only affects the tractor repair building and canopy structure.

Testimony and evidence revealed that the subject property is 2.295 acres (100,000 square feet) and is split-zoned BR-AS and ML. As noted above, the property has a lengthy zoning history, and at present the owner seeks to reduce the size and scope of certain features and structures approved in earlier cases. The reduction in building size (from approximately 3,900 square feet to 2,600 square feet) and removal of the proposed breezeway from the plan will in no way negatively impact the surrounding community. As such, the Petition for Special Hearing will be granted.

Based on the evidence presented, I also 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 (as did the prior Zoning Commissioners) special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Petitioner is constrained by certain existing site conditions, and the building to building setback, as noted by the Department of Planning, is in a sense an "internal" variance

that will not affect neighboring owners.

I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship, given that Petitioner would be unable to construct the proposed improvements. 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 support of the Department of Planning and the lack of community opposition.

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

THEREFORE, IT IS ORDERED, this 21st day of August, 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 amend the site plan filed in Case Nos. 5378, 72-36-X, 83-124-SPHA, 2010-0006-SPHA and 2011-0287-SPHA, by reducing the proposed tractor and trailer repair building to 40' x 65', and to remove the proposed breezeway from the proposed one-story 578 square foot addition to the proposed tractor and trailer repair building, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the requested variance relief from Sections 255.1, 102.2 and 238.2 of the B.C.Z.R. to allow a building to building setback of 15' in lieu of the required 60', be and is hereby GRANTED.

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

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