

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
<b>(135 Village Queen Drive)</b>	*	OFFICE OF
3 <sup>rd</sup> Election District		
2 <sup>nd</sup> Councilmanic District	*	ADMINISTRATIVE HEARINGS
Trentham Mansion LLC		
Petitioner	*	FOR BALTIMORE COUNTY
	*	<b>Case No. 2013-0012-SPHA</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed by J. Neil Lanzi, Esquire, on behalf of the legal owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to allow the amendment of the Final Development Plan (FDP) for Queen Anne Village addition (Section 5B & 5C) from the 10<sup>th</sup> Amendment to the 11<sup>th</sup> Amendment. The Variance petition seeks relief from the B.C.Z.R. as follows: (1) to allow 0% amenity open space in lieu of the required 7% pursuant to §204.4.C.6, (2) to allow landscape buffers as small as 0 ft. in lieu of the required 10 ft. pursuant to §204.4.C.9.c.(1), and (3) to allow 22 parking spaces in lieu of the 29 required spaces pursuant to §409.6.A.2. 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 in support of the requests was Kevin P. Welsh, Alden S. Bradstock, III, P.E., and Bruce E. Doak with Bruce E. Doak Consulting, LLC, the firm that prepared the site plan. J. Neil Lanzi, Esquire, appeared and represented the Petitioner. Also in attendance was Thomas J. Langford. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

Zoning Advisory Committee (ZAC) comments were received and are included in the file. The only substantive comment was submitted by the Department of Planning (DOP), which supports the Variance petition.

The subject property is .75 acres in size and is zoned primarily RO, with small portions of DR 16 and DR 2. The property is improved with an historic mansion (the Trentham Mansion) [“Mansion”] listed as Final Landmark No. 14 on Baltimore County’s Final Landmark List. The current owner, Kevin Welsh, acquired the property in 2006, and to date has invested over \$1M in renovations. Petitioner’s Exhibit 3. Though the County issued citations to the Petitioner for undertaking certain improvements without the proper authorization of the Landmarks Preservation Commission (LPC), the parties resolved the matter and a Settlement Agreement (Petitioner’s Exhibit 2) was reached in October, 2012.

Mr. Welsh testified he has completed all repairs required by the LPC, and he intends to sell or lease the property for office uses, including medical offices. The witness explained the property has for the last 18 years been used as a health and wellness center. Mr. Welsh indicated the Garrison Overlook Community Association supports his petition. Petitioner’s Exhibit 4.

Mr. Doak, a licensed surveyor accepted as an expert, described the plan in general terms, and indicated the Mansion would be used as a Class A office building (on the portion of the property zoned RO). He described the immediate surroundings as medium to heavy residential, with commercial uses in close proximity. Mr. Doak opined the property was of an unusual shape, and that the expanded parking was needed to sustain the office uses within the Mansion.

The Petitioner also presented as a witness Alden S. Bradstock, III, P.E., a mechanical engineer. Mr. Bradstock indicated he provided consultation concerning the project, and he stated the Petitioner improved the property by undertaking the significant renovations.

As an initial matter, I do not believe that an 11<sup>th</sup> Amendment to the Queen Anne Village residential development is required or would be prudent. This ¾ acre parcel, though it happens to be shown on the FDP for that development, is not in any way an integral part of that project. The Petitioner is not proposing residential uses for the Mansion, and the majority of the parcel is zoned RO. As such, I believe that amending the FDP, for the 11<sup>th</sup> time, would only confuse matters.

Based upon the testimony and evidence presented, I will grant the request for variance relief. Under *Cromwell* and its progeny, to obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

*Trinity Assembly of God v. People's Counsel*, 407 Md. 53, 80 (2008).

The Petitioner has met this test. The property is of irregular dimensions and contains a Mansion and outbuildings on the Final Landmark List. As such, it is unique for zoning purposes. The Petitioner would experience a practical difficulty if the regulations were strictly enforced, since it would be unable to obtain a return on its investment and use the property for offices, as permitted by its zoning. The grant of variance relief will not be detrimental to the community's health, safety and welfare, as demonstrated by the support of Baltimore County.

Pursuant to the advertisement, posting of the property, and the public hearing, and after considering the testimony and evidence offered, I find that Petitioner's Variance request should be granted.

THEREFORE, IT IS ORDERED this 23<sup>rd</sup> day of April 2013, by this Administrative Law Judge, that Petitioner's request for Special Hearing to allow the amendment of the Final Development Plan (FDP) for Queen Anne Village addition (Section 5B & 5C) from the 10<sup>th</sup>

Amendment to the 11<sup>th</sup> Amendment , be and is hereby DISMISSED WITHOUT PREJUDICE (as unnecessary); and

IT IS FURTHER ORDERED that Petitioner's Variance request from B.C.Z.R. as follows: (1) to allow 0% amenity open space in lieu of the required 7% pursuant to §204.4.C.6, (2) to allow landscape buffers as small as 0 ft. in lieu of the required 10 ft. pursuant to §204.4.C.9.c.(2), and (3) to allow 22 parking spaces in lieu of the 29 required spaces pursuant to §409.6.A.2, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for appropriate 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 such time as the 30-day appellate process from 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.

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Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB/dlw