

IN RE: PETITION FOR VARIANCE
(3114 Hammonds Ferry Road)
13th Election District
1st Councilman District
3114 Hammonds Ferry Road, LLC
Legal Owner/Petitioner

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2013-0106-A

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by the legal owner of the subject property, 3114 Hammonds Ferry Road, LLC. The Petitioner is requesting Variance relief from Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.): 1) To allow a side yard setback of 2 ft. in lieu of the 50 ft. required, (2) To allow 13 ft. two way drive in lieu of a 22 ft. required drive, (3) To allow a rear yard setback of 3 ft. in lieu of the required 30 ft., (4) To allow a building separation of 21 ft. in lieu of the required 125 ft., (5) To allow a front setback of 21 ft. in lieu of the required 75 ft., and (6) to allow a 2 ½' setback for parking from a right of way line in lieu of the required 10'. The subject property and requested relief is more fully depicted on the redlined 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 Lawson and Patrick Richardson, with Richardson Engineering, LLC, the consulting firm that prepared the site plan. 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 protest or opposition.

The Zoning Advisory Committee (ZAC) comments were received and made a part of the

record of this case. The only substantive comment received was from the Bureau of Development Plans Review (DPR), which requested that Petitioner show the ultimate 60-foot right-of-way line for Hammonds Ferry Road through the site, move the parking out of the widening area, and revise the front setback request accordingly. That agency indicated it did not oppose variance requests numbered 1-4, and that a landscape plan would be required prior to issuance of any permits.

Testimony and evidence revealed that the subject property is 7,452 square feet (0.17 acres) and is zoned ML-IM. The Petitioner purchased the property in 2011, and proposes to use the site as the business office for a mechanical services company known as LPC Services, which was started in 1992.

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).

Petitioner has met this test. As shown on the site plan, the property is uniquely shaped, and is also situated alongside D.R. zoned properties, which generates the relatively large setbacks.

If the B.C.Z.R. were strictly enforced, the Petitioner would indeed suffer a practical difficulty and/or hardship, since it would be unable to operate the business as planned. 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 lack of opposition from the community and the lack of negative comments from Baltimore County reviewing agencies. Though the property is zoned ML, the use proposed here is relatively benign, and will not negatively impact the surrounding neighborhood. Mr.

Lawson, who operates LPC Services, stressed that this site will be used for administrative and clerical functions associated with the company, which provides on-site mechanical services to industrial clients. Mr. Lawson testified he has 5 service technicians in his employ, and that they take their company van/truck home with them in the evening. Mr. Lawson also indicated he has good relations with his neighbors, one of whom cuts the grass for him at the subject property.

Finally, Mr. Richardson revised the site plan to depict the 60' right of way line for Hammonds Ferry Road, which in turn necessitated an Amendment of Variance request #5, from 38' to 21'. In addition, one of the proposed parking spaces shown on the original plan was eliminated. Thus, there will only be 1 parking space in front of the building, with a 2 ½' setback in lieu of the 10' required by B.C.Z.R. §409.8.A.4.

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

THEREFORE, IT IS ORDERED, this 7th day of January, 2013 by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.), 1) To allow a side yard setback of 2 ft. in lieu of the 50 ft. required, (2) To allow 13 ft. two way drive in lieu of a 22 ft. required drive, (3) To allow a rear yard setback of 3 ft. in lieu of the required 30 ft., (4) To allow a building separation of 21 ft. in lieu of the required 125 ft., (5) To allow a front setback of 21 ft. in lieu of the required 75 ft., and (6) to allow a 2 ½' setback for parking from a right of way line in lieu of the required 10', 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.
2. Petitioner must submit for approval by Baltimore County a landscape plan prior to the issuance of any required permits.

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:sln