

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(110 W. Sudbrook Lane)		
3rd Election District	*	OFFICE OF ADMINISTRATIVE
2nd Council District		
St. Charles Borromeo’s Roman Catholic	*	HEARINGS OF
Congregation, Incorporated		
Legal Owners	*	BALTIMORE COUNTY
John MacSherry		
Contract Purchasers		
	*	CASE NO. 2020-0269-A
Petitioners		
* * * * *		

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by St. Charles Borromeo’s Roman Catholic Congregation, Incorporated, Legal Owner and John MacSherry, Contract Purchasers, Petitioners for property located at 110 W. Sudbrook Lane. The Petitioners are requesting variance relief from Baltimore County Zoning Regulations (“BCZR”) § 1B01.2.C.1.a and Division II Section A (Table V) of the Comprehensive Manual of Development Policies (“CMDP”) to permit a 20 ft. side yard setback for non-residential principal building setback in a DR zone in lieu of the required 25 ft.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”). They did not oppose the requested relief.

John MacSherry appeared at the hearing on behalf of the Petitioner. Matthew Oakey, Esquire represented the Contract Purchaser. Bob Rosenfelt, P.E, of Colbert Matz Rosenfelt also appeared. The site plan he prepared and sealed was marked and accepted into evidence as Petitioners’ Exhibit 3. Two interested citizens also attended.

The subject property is approximately 4.918 acres and is zoned DR 16. Mr. Oakey and

Mr. Rosenfelt explained that the property owner, St. Borromeo's Roman Catholic Church, has owned the subject property since 1848. The property consists of a church, a rectory, a school and field, and a cemetery. The school was built in 1957 and was operated by St. Borromeo's parish until 1989. Since then the school building has been leased to other private schools. The current private school has entered into a contract with St. Borromeo's to purchase the school building and parking lot. That contract is contingent on the variance relief requested, which is necessitated by a lot line adjustment so that the school and parking lot can be conveyed as one parcel.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

The site is unique for a variety of reasons. It is irregularly shaped and contains a number of different uses, some of which date back to the middle of the 19th century. Petitioner would experience practical difficulty if the variance were denied because they would be unable to convey the school and parking lot as a single parcel. I find that the 5' setback variance can be granted within the spirit and intent of the BCZR and without causing harm to the public health, safety, or welfare.

THEREFORE, IT IS ORDERED, this **22nd** day of **February 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR § 1B01.2.C.1.a and Division II Section A (Table V) of the Comprehensive Manual of Development Policies ("CMDP") to permit a 20 ft. side yard setback for non-residential principal building setback in a DR zone in lieu of the required 25 ft. is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.

Signed _____
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM/dlm