

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
(8204 Liberty Road)	*	OFFICE OF ADMINISTRATIVE
2nd Election District	*	HEARINGS FOR
4 th Council District	*	BALTIMORE COUNTY
MBD Management, LLC.	*	CASE NO. 2021-0252-A
<i>Legal Owner</i>		
Petitioner		

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by MBD Management, LLC (“Petitioner”) for property located at 8204 and 8208 Liberty Rd., Windsor Mill (the “Property”). Petitioner is requesting Variance relief from Baltimore County Zoning Regulations (“BCZR”), §238.2 and §409.8.A.4 to permit a side yard setback of 25 ft. in one instance and 10 ft. in one instance in lieu of 30 ft. otherwise required; and to permit a parking space located 8 ft. from the right-of-way line of a public street in lieu of the required 10 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. Waheed Sheikh, a member of the Petitioner appeared at the hearing in support of the Petition along with Patrick (“Rick”) Richardson, PE of Richardson Engineering who prepared and sealed a redlined site plan (the “Redlined Site Plan”). (Pet. Ex. 2). Dino La Fiandra, Esquire represented the Petitioner. There were no Protestants or interested citizens who appeared.

Zoning Advisory Committee (“ZAC”) comments were received from the Department of Environmental Protection Sustainability (“DEPS”), Department of Planning (“DOP”) and Development Plans Review (“DPR”) which agencies did not oppose the requested relief.

FACTS AND EVIDENCE

The case proceeded by way of modified proffer by Mr. La Fiandra. Mr. Richardson was accepted as an expert in civil engineering (Pet. Ex. 1) and Mr. Ami Barman was accepted as an expert in architecture. The Property is 1.19 acres +/- (51,875 sf) consisting of 8204 and 8208 Liberty Rd. and sits on the corner of, and is accessed from both, Liberty Rd. and Marriotts Lane. (Pet. Ex. 4). Per the street view photographs provided, it is improved with a multi-level, stone building constructed in or about 1938 which has been used as office space. (Pet. Ex. 3). It is almost entirely zoned Business, Roadside – Automotive Services District but there is a sliver of Residential-Office in the rear of the Property (BR-AS & R-O). (Pet. Ex. 2). Per the aerial photograph of the Property, it is adjacent to a Shell Gas Station and Car Wash (8200 Liberty Rd.). (Pet. Ex. 4). There are parking lots in the front and rear of the Property.

Using the Redlined Site Plan, Mr. Richardson described the Property as oddly-shaped. (Pet. Ex. 2). The Petitioner is proposing to raze the stone building and construct a 1-story, 8,192 sf retail building with concrete sidewalks around 3 sides of the building along with one (1) sign at the corner. The Redlined Site Plan sets forth the required number of parking spaces for retail development is 5 spaces per 1,000 sf. For the proposed 8,192 sf retail building, 41 parking spaces are required and will be provided. Mr. Richardson explained that while the proposed building can meet both the front and rear setbacks for BR zone, due to the shape of the Property, the building can only provide a 10 ft. setback on the eastern side, and a 25 ft. setback on western side. Similarly, he opined that the shape of the Property is causing one (1) parking space to be located 8.42 ft. from the right-of-way of Marriotts Lane. He stated that the jogs and angles of the Property shape impacts both the layout of the building and parking spaces. Thus, the building is forced to the east, next to the car wash at 8200 Liberty Rd.

Mr. La Fiandra highlighted that the Property is located in the Liberty Road Commercial Revitalization District (“CRD”) as set forth in Master Plan 2020. The CRD encourages investment and revitalization. In regard to the DOP Comment that the eastern side of the proposed building should have windows and doors, Mr. La Fiandra reasoned that those features would serve no purpose and would be at the expense of the Petitioner as that side faces the car wash which is less than 10 ft. from the Property line. A 3-D rendering of the proposed building and particularly the eastern side provided helpful insight into the architecture. (Pet. Ex. 5). The DOP’s request for a special feature or focal point will be accomplished with a clock above the sign on the corner. (*Id.*). He clarified that a Landscape Plan and a Lighting Plan will be submitted.

After the hearing, an email was submitted by Liberty Road Community Council, Inc. who expressed support for the proposed plan. A copy of the email is contained in the file.

DECISION

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).

As described above, I find that the Property is unique due to its irregular shape and that the same Property was found to be unique in Case. No. 2010-0224-A. I find that the Petitioner would suffer a practical difficulty and unreasonable hardship if the proposed side yard setbacks and parking space setback were not granted because a new retail building within the CRD, which is needed to improve this corner, could not be constructed. The new building will be setback farther from Liberty Rd. than the existing building and will have new sidewalks. The sign with a clock

on the corner provides an attractive focal point for the community. The proposed building will be an improvement to the site and is consistent with the revitalization purposes of the CRD. I agree with the Petitioner that there is no need to install windows or doors on the eastern side of the building as it is facing a car wash. Separation between those two uses can be accomplished with a landscape strip in that 10 ft. area. I also find that the requested variance relief can be granted in strict harmony with the spirit and intent of the BCZR and without injury to the health, safety or general welfare, particularly in light of the support of the Liberty Road Community Council, Inc. and otherwise lack of opposition.

THEREFORE, IT IS ORDERED, this 29th day of **November 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR, §238.2 and §409.8.A.4 to permit a side yard setback of 25 ft. in one instance and 10 ft. in one instance in lieu of 30 ft. otherwise required; and to permit a parking space located 8 ft. from the right-of-way line of a public street in lieu of 10 ft. otherwise required is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is 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, Petitioner would be required to return the subject property to its original condition.
2. Petitioner must comply with the DEPS and DPR ZAC comments, copies of which are attached hereto and make a part thereof.
3. Petitioner must comply with the DOP ZAC comment, a copy of which is attached hereto and make a part thereof, with the exception that no windows or doors need to be installed on the eastern façade of the building facing the car wash.
4. The Redlined Site Plan (Pet. Ex. 2) shall be incorporated into and made a part of this Order.

5. Petitioner shall file a Landscape Plan and a Lighting Plan. Additionally, the Landscape Plan shall include landscape screening (not a fence) along the eastern 10 ft. strip between the eastern façade of the building facing the car wash and the Property line.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.



MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM/dlm