RESOLUTION

Background

This matter comes before the Baltimore City Board of Municipal & Zoning Appeals ("Board") on appeal from the Zoning Administrator for Baltimore City denying the application of Park West Medical Center, Inc. ("Appellant") to construct an addition at 3321 and 3323 W. Belvedere Avenue to an existing building located at 3317-19 W. Belvedere Avenue. All three lots will collectively be referred to as "Property" and are in the process of being consolidated by Appellant.

Appellant filed this appeal to the Board on August 25, 2021, and Appellant’s representatives appeared at a public hearing on February 22, 2022. Board staff prepared a memorandum evaluating the appeal. Ms. Carol Johnson appeared in opposition. Following deliberations and for the reasons set forth below, the Board voted to approve Appeal No. 2021-215 by a unanimous vote.

Facts

The Property is located in an OR-1 Zoning District¹ and is comprised of three adjacent lots; 3317-19 W. Belvedere contains an existing health care center, and 3321 and 3323 W. Belvedere Ave are unimproved adjacent lots. Appellant proposes to construct an addition to the existing health-care clinic on the unimproved lots. Appellant’s proposal would require a variance to the off-street parking requirements of Article 32, Table 16-406, which specifies that three (3) off-street parking spaces must be provided per 1,000 square feet of new gross floor area. The proposed addition would create 15,456 square feet of new gross floor area, which would require forty-six (46) new off-street parking spaces. Appellant added that the proposed renovation and addition will remove three (3) existing parking spaces from the site. No off-street parking spaces will be created under the proposed plans. Therefore, Appellant’s total off-street parking variance request is forty-nine (49) parking spaces, including both new spaces required and existing spaces removed. Appellant noted that it has entered into agreements with nearby parking lot owners at 5101-03 Denmore Avenue, across the street from the clinic, to share parking lot space. Appellant submitted letters of support of their application from various local community organizations and churches.

¹ The Property had previously been zoned R-6, but the lots were rezoned by City Council Ordinance 20-446, which went into effect on December 2, 2020.
Ms. Patrice Wallace, an employee of Appellant, testified regarding off-street parking arrangements for patients with nearby property owners.

Ms. Carol Johnson testified in opposition to the application, stating that she was the owner of 3323 W. Belvedere Avenue, one of the unimproved lots onto which Appellant plans to expand. Ms. Johnson testified that she had inherited the lot from her mother and grandmother, Caroline Pinkney and Wendy Shirley James. Ms. Johnson stated that she has been paying the water bills and property taxes for this property for many months, since Ms. James and Ms. Pinkney passed away. According to state records, the lot has never been transferred to Ms. Johnson’s ownership; the last owners of record, prior to Appellant’s ownership, according to Maryland State Department of Assessments and Taxation records, were Ms. Pinkney and Ms. James.

Appellant provided evidence of its ownership of 3323 W. Belvedere Avenue. According to City records, between November 2016 and February 2017, the house that formerly existed on the lot was demolished. In 2017, Baltimore City sold the tax lien certificate attached to the lot to Hobart Holdings, LLC (“Hobart”). The Circuit Court for Baltimore City foreclosed the right of redemption on 3323 W. Belvedere Avenue on July 22, 2019, and Hobart then conveyed the lot to Appellant on December 30, 2021. Appellant provided a copy of the executed deed to the Board, which, their representative proffered, had been filed with Maryland Land Records but had not yet been processed as of the February 22, 2022 hearing date, due to a processing backlog.

**Standard of Review**

Appellant’s application to the Board requires one variances: an off-street parking variance for forty-nine (49) parking spaces.

Pursuant to City Code Article 32, § 5-308(a), in order to grant a variance, the Board of Municipal and Zoning Appeals, must find that, because of the particular physical surroundings, shape, or topographical conditions of the specific structure or land involved, an unnecessary hardship or practical difficulty, as distinguished from a mere inconvenience, would result if the strict letter of the applicable requirement were carried out.

The Board must also find that: (1) the conditions on which the application is based are unique to the property for which the variance is sought and are not generally applicable to other property within the same zoning classification; (2) the unnecessary hardship or practical difficulty is caused by this Code and has not been created by the intentional action or inaction of any person who has a present interest in the property; (3) the purpose of the variance is not based exclusively on a desire to increase the value or income potential of the property; (4) the variance will not: (i) be injurious to the use and enjoyment of other property in the immediate vicinity; or (ii) substantially diminish and impair property values in the neighborhood; (5) the variance is in harmony with the purpose and intent of this Code; (6) the variance is not precluded by and will not adversely affect: (i) any Urban Renewal Plan; (ii) the City’s Comprehensive Master Plan; or (iii) any Historical and Architectural Preservation District; and (7) the variance will not otherwise: (i) be detrimental to or endanger the public health, safety, or welfare; or (ii) be in any way contrary to the public interest.

**Discussion**

The existing structure located at 3317-3319 W. Belvedere Avenue occupies nearly the entirety of the lot and provides little space for off-street parking. Appellant testified that adherence to the Code’s off-street parking requirements would present a practical difficulty, because it would be physically impossible to provide forty-nine (49) off-street parking spaces as well as an addition to the clinic on two narrow lots with a combined area of 8,108 square feet. The Property is unique because it is a health care clinic in a mostly residential area on a lot that is scarcely larger than the
building. The Board finds by competent evidence that because of the particular physical surroundings and shape of the existing lot, a strict application of the Zoning Code would result in practical difficulty, as distinguished from mere inconvenience, if the off-street parking requirements were required. Because of these findings, Appellant meets the threshold requirement for obtaining a variance.

The objection raised by Ms. Johnson, relating to the tax and demolitions liens and subsequent tax sale of 3323 W. Belvedere Avenue, is not relevant to the Board’s consideration of the off-street parking variance in this case. Appellant submitted evidence to prove that it owns each of the lots that make up the Property, including 3323 W. Belvedere Avenue. The Board does not have jurisdiction to grant any relief to Ms. Johnson for taxes or bills erroneously paid.

The conditions on which this application is based are unique to this property and the unnecessary hardship or practical difficulty caused by a strict application of the Zoning Code has not been created by the intentional action or inaction of any person who has a present interest in the property. The purpose of the requested variance is not based exclusively on a desire to increase the value or income potential of the property as no such evidence was introduced at the hearing or can be inferred from the plans. The variance proposed will not be injurious to the use and enjoyment of other property in the immediate vicinity and will not substantially diminish and/or impair property values in the neighborhood. The Board further finds that this variance will be in harmony with the purpose and intent of this Code, is not precluded by and will not adversely affect any Urban Renewal Plan, the City’s Comprehensive Master Plan, or any Historical and Architectural Preservation District. The variance requested will not otherwise be detrimental to or endanger the public health, safety, or welfare, or be in any way contrary to the public interest.

**Conclusion**

For the reasons set forth above, and after giving public notice, reviewing the zoning records, holding a public hearing, considering all data submitted, and by authority of City Code Article 32, it is this 19th day of April, 2022, by the Baltimore City Board of Municipal and Zoning Appeals, hereby:

RESOLVED, that the Board finds sufficient evidence in the record to support the application of the Appellants to construct an addition at 3321 and 3323 W. Belvedere Avenue to an existing building located at 3317-19 W. Belvedere Avenue, requiring a variance to the off-street parking requirements of the City Code; and it is further,

RESOLVED, that Appeal No. 2021-215 is GRANTED by unanimous vote of the Board of Municipal and Zoning Appeals.

DO NOT START WORK OR USE THE PROPERTY UNTIL YOU OBTAIN A BUILDING OR A USE & OCCUPANCY PERMIT FROM THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT. YOU HAVE ONE YEAR FROM THE DATE OF THIS RESOLUTION TO OBTAIN A BUILDING PERMIT OR A USE & OCCUPANCY PERMIT.

Kathleen Byrne
Acting Executive Director