

IN RE: PETITION FOR VARIANCE
(3933 Chaffey Road)
2nd Election District
4th Councilmanic District
Lynn Breedlove
Petitioner

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2013-0271-A**

* * * * *

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by the legal owner of the property, Lynn Breedlove, for property located at 3933 Chaffey Road. The Variance request is from Section 432A.1.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”): (1) to permit a proposed parking space for an assisted living facility with a 2' setback in lieu of the required 10', and; (2) to permit parking in the front yard in lieu of the required side or rear yard. The subject property and requested relief are more particularly described on the plan marked as Petitioner’s Exhibit 1.

This matter was originally filed as an Administrative Variance, with a closing date of June 10, 2013. On June 12, 2013, Administrative Law Judge Lawrence M. Stahl requested a formal hearing on this matter. The hearing was subsequently scheduled for Thursday, August 1, 2013 at 10:00 AM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. 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 Zoning Advisory Committee (ZAC) comments received.

Appearing at the public hearing in support for this case was Lynn Breedlove. There were no Protestants or interested citizens in attendance, and the file does not contain any letters of protest or opposition. In fact, the adjoining neighbors at 3931 and 3935 Chaffey Road submitted letters supporting the Petitioner.

Testimony and evidence revealed that the subject property is approximately 6,875 square feet and is zoned DR 5.5. The property is improved with a single family dwelling (1,500 s.f.), and the Petitioner bought the house in 1991 and now resides in the basement. The Petitioner testified she now cares for her mother and aunt, both of whom are infirm and reside at the home. The Petitioner has one additional bedroom in the home, and proposed to accommodate two assisted living patients. The Petitioner testified she received state licensure in April 2012, and that the property was inspected and approved by the County's fire department.

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. As shown on the site plan, the property is of irregular dimensions and is thus unique.

The Petitioner would experience a practical difficulty if the regulations were strictly enforced, since she would be unable to operate an assisted living facility. In addition, the grant of relief will not be injurious to the public's health, safety and welfare.

In addition and as noted above, adjoining neighbors at 3935 Chaffey Road (Robert A. Brown, Jr) and 3931 Chaffey Road (Sharon Davis-Gardner) submitted a letter stating they did not object to the proposed assisted living facility. Exhibit 2.

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

THEREFORE, IT IS ORDERED, this 5th day of August, 2013 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from § 432A.1.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R."): (1) to permit a proposed parking space for an assisted living facility with a 2' setback in lieu of the required 10'; and (2) to permit parking in the front yard in lieu of the required side or rear yard, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The 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 her own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The relief granted herein pertains to the parking requirements for assisted living facilities. The Petitioner must obtain all required licenses, permits and approvals required by State and County authorities prior to operating the proposed facility.

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