

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(4221 Colonial Road)		
3 rd Election District	*	OFFICE OF ADMINISTRATIVE
2 nd Councilmanic District		
Tracey McKee Sabree	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2014-0047-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by the legal owner of the property, Tracey McKee Sabree for property located at 4221 Colonial Road. The variance request is from § 432A.1.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a parking pad for a proposed assisted living facility (ALF) to have a side yard setback of 3 ft. in lieu of the required 10 ft.

This matter was originally filed as an Administrative Variance, with a closing date of September 23, 2013. On October 2, 2013, the undersigned requested a formal hearing on this matter. The hearing was subsequently scheduled for Tuesday, November 26, 2013 at 1:30 PM in Room 104 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. The file reveals that the Petition was advertised and posted as required by the Baltimore County Zoning Regulations.

There were no substantive Zoning Advisory Committee (ZAC) comments received.

Appearing at the public hearing in support for this case was Tracey McKee Sabree, legal owner. There were no Protestants in attendance, and the file does not contain any letters of protest or opposition.

Testimony and evidence revealed that the subject property is approximately 6,250 square feet and is zoned DR 5.5. The property is improved with a 3 bedroom single family dwelling, which the Petitioner has owned since 2009. The Petitioner proposes to operate an ALF (with a maximum of three residents) on site, and the B.C.Z.R. imposes a 10' setback for the parking area required for such a facility. As such, the Petitioner seeks variance relief.

Based upon the testimony and evidence presented, I will grant the petition for variance.

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. The property adjoins a private alley to the rear (which will provide access to the proposed parking pad shown on the site plan) and is therefore unique. The Petitioner would experience a practical difficulty if the regulations were strictly interpreted, since she would be unable to operate the proposed ALF. Finally, the relief will not be detrimental to the public health, safety and welfare.

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 3rd day of December, 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."), to permit a parking pad for a proposed assisted living facility to have a side yard setback of 3 ft. in lieu of the required 10 ft., be and is hereby GRANTED, subject to the condition noted below.

- The variance relief granted herein is expressly contingent upon the receipt by Petitioner of a use permit from the Department of Permits, Approvals and Inspections. Prior to issuance of a use permit for the ALF the Petitioner must obtain all requisite approvals and licenses from the State of Maryland, and must also obtain a compatibility finding from the Department of Planning per B.C.Z.R. § 432A.1 and Baltimore County Code (BCC) § 32-4-402.

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