

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(5939 Prince George St.)		
1 st Election District	*	OF ADMINISTRATIVE
1 st Councilman District		
Kamilah Shortridge	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2013-0306-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Cynthia Shipley on behalf of Kamilah Shortridge, the legal owner of the subject property. The Petitioner is requesting Variance relief from Sections 432A.1.C.1 and 432A.1.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit two off street parking spaces for a proposed assisted living facility, one to be located in the side yard as close as 0 ft. from the property line and a second in the front yard, in lieu of the required 10 ft. and rear or side yard, respectively. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the requests was Maxine Shortridge and Cynthia Shipley. Several neighbors attended the hearing and opposed the petition. The file reveals that the Petition was properly advertised and posted as required by the Baltimore County Zoning Regulations.

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

Testimony and evidence revealed that the subject property is approximately 8,400 square feet and is zoned DR 5.5. The Petitioner proposes to operate an assisted living facility (with three patients) on the site, although all that is sought in the current case is a variance with respect to the

parking requirements. A use permit and a compatibility finding by the Department of Planning (DOP) are required before an assisted living facility can be operated in a residential zone. BCZR § 432A.

Based upon the testimony and evidence presented, I will deny 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).

In this case, no testimony or evidence was presented to show that the property is “unique” for zoning purposes. But more importantly, I believe based on the testimony provided by the adjacent neighbors that the zoning relief could be detrimental to the health, safety and welfare of the community.

The three neighbors (Juanita Sykes, Johna Bentley and Gina Butler) testified that the Petitioner's property is not well-maintained and has tall grass. They each indicated that parking is very tight in the community, and that there have been tenants and “transients” staying at the subject property who frequently park their cars in front of their homes. In addition, the neighbors were concerned that these “transients” may be involved in criminal activity, and they simply did not feel there was a level of trust with the Petitioner. They each worried that the parking and traffic issues would be exacerbated if an assisted living facility was opened.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the variance relief requested shall be denied.

THEREFORE, IT IS ORDERED, this 4th day of November, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to

Baltimore County Zoning Regulations (“B.C.Z.R”) to permit two off street parking spaces for a proposed assisted living facility, one to be located in the side yard as close as 0 ft. from the property line and a second in the front yard, in lieu of the required 10 ft. and rear or side yard, respectively, be and is hereby DENIED.

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