

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(9100 Meadow Heights Road) *	OFFICE OF
2 nd Election District	
4 th Council District *	ADMINISTRATIVE HEARINGS
Amelia Saydee	
Petitioner *	FOR BALTIMORE COUNTY
	Case No. 2014-0254-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of the legal owner. The Special Hearing was filed pursuant to §500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve a proposed five (5) beds Assisted Living Facility (ALF) in lieu of the maximum allowed of four (4) beds on a lot with less than 12,000 sq. ft. property area in a DR 5.5 zone. The Variance petition seeks relief from B.C.Z.R. §432.A.1.C.2 to permit the parking and delivery areas in the front yard in lieu of the required side or rear yard location.

The subject property and requested relief is more fully depicted on the revised 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 Amelia Saydee. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants in attendance and the file does not contain any letters of opposition. In fact, Petitioner’s neighbor at 9102 Meadow Heights Road submitted a letter (Exhibit 3) indicating she did not object to the proposal.

Substantive Zoning Advisory Committee (ZAC) comments were submitted by the Department of Planning (DOP) dated June 27, 2014, which also did not object to the requests.

The subject property is approximately 0.25 acres and is zoned DR 5.5 and DR 3.5. The Petitioner has an extensive background in geriatric nursing, and has been licensed as an R.N. since 2004. At present, she is the unit manager for Manor Care Nursing Home in Catonsville. Petitioner proposes to operate a five (5) bed assisted living facility in the single family dwelling, and she will reside on site in the basement. Petitioner stated that she will also employ two or three other assistants (with the necessary credentials) to take care of the elderly patients/residents.

The Petition for Special Hearing seeks one additional bed (i.e., 5 instead of 4) for the proposed ALF. As noted by the DOP, Petitioner's lot and home are larger than those in the immediate area, and the grant of relief would in no way negatively impact the community. This is a modest request, and it will be granted in the Order which follows.

Based upon the testimony and evidence presented, I will also grant the petition for variance. To obtain variance relief a petitioner must show:

- (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 is located at the intersection of two roadways, and the dwelling is positioned at an angle on the lot. As such, the property is unique.

I also find that strict compliance with the B.C.Z.R. would result in practical difficulty, given that Petitioner would be unable to operate the proposed ALF. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This is demonstrated by the absence of Baltimore County and community opposition.

THEREFORE, IT IS ORDERED this 4th day of August, 2014, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R) to approve a proposed five (5) bed Assisted Living Facility (ALF) in lieu of the maximum allowed four (4) beds on a lot with less than 12,000 sq. ft. property area in a DR 5.5 zone, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance pursuant to B.C.Z.R. §432.A.1.C.2 to permit the parking and delivery areas for the ALF in the front yard in lieu of the required side or rear yard location, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. 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, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Prior to issuance of permits, Petitioner must obtain all necessary Baltimore County and State of Maryland inspections, approvals and licensure.
3. Petitioner must reside at the subject property for so long as it is operated as an ALF.

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

JEB/sln

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County