

IN RE: PETITION FOR VARIANCE
(6923 Blanche Road)
3rd Election District
2nd Councilmanic District
Alisha Polk
Petitioner

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2015-0100-A**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by the legal owner, Alisha Polk, for property located at 6923 Blanche Road. The Petitioner is requesting variance relief from Section 432A.1.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit two 8.5 ft. x 22 ft. (17 ft. x 22 ft. total) off street parking spaces for a proposed Assisted Living Facility (ALF) with side yard setbacks as close as 5 ft. in lieu of the required 10 ft.

This matter was originally filed as an Administrative Variance, with a closing date of November 24, 2014. On November 24, 2014, Mr. and Mrs. Garrison (neighbors) requested a formal hearing on this matter. The hearing was subsequently scheduled for Monday, January 5, 2015 at 1:30 PM in Room 205 of the Jefferson Building, 105 West Chesapeake Avenue, Towson. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations.

The subject property (zoned DR 10.5) is approximately 2,000 square feet and is improved with a rowhouse/townhome. Petitioner would like to operate an assisted living facility (ALF) on the premises. To do so requires variance relief with respect to the parking requirements for such a use.

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).

Petitioner has met this test. The Petitioner must contend with existing site conditions (i.e., the rear-yard parking area has existed since 1963, when the home was constructed) and thus the property is unique. Petitioner would experience a practical difficulty if the regulations were strictly interpreted, since she would be unable to operate an ALF at the property.

I also believe the variance can be granted without a detrimental impact upon the community. Although the neighbor (Mrs. Garrison) originally opposed the relief because of the lack of on-street parking at her home, she attended the hearing and testified that she now understands the "reserved" parking for the ALF will be in the rear of the home, which is accessed by a 16' wide alley.

THEREFORE, IT IS ORDERED, this 7th day of January, 2015 by the Administrative Law Judge for Baltimore County, that the Petition for Variance from B.C.Z.R. Section 432A.1.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit two 8.5 ft. x 22 ft. (17 ft. x 22 ft. total) off street parking spaces for a proposed Assisted Living Facility (ALF) with side yard setbacks as close as 5 ft. in lieu of the required 10 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at her own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for

whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

2. No signs of any type shall be erected on the subject property.
3. This Order pertains only to the setback requirements for the parking associated with an ALF. Petitioner must obtain all necessary permits, licenses, inspections and/or approvals from State and Baltimore County agencies prior to operation of an ALF at the subject property.
4. Petitioner shall notify the ALF residents that all visitors and/or family shall park in the rear of the home in the designated spaces.

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