

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(8222 Brattle Road)		
2 nd Election District	*	OF ADMINISTRATIVE
2 nd Council District		
John T. Williamson	*	HEARINGS FOR
<i>Legal Owner</i>		
Diane Archer	*	BALTIMORE COUNTY
<i>Lessee</i>		
Petitioners	*	CASE NO. 2015-0231-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of John T. Williamson, legal owner and Diane Archer, lessee (“Petitioners”). The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §409.6.A.1 to provide one (1) usable off-street parking space for a four (4) bed assisted-living facility (“ALF”) in lieu of the required two (2) parking spaces. A site plan was marked and admitted as Petitioners’ Exhibit 1.

Appearing at the public hearing in support of the request was Diane Archer. No Protestants or interested citizens were in attendance. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Bureau of Development Plans Review (DPR). That agency noted a landscape plan must be provided.

The subject property is approximately 9,800 square feet and is zoned DR 3.5. Ms. Archer currently operates a 3-bed ALF at the property, where she and her mother also reside. She would like to have a 4th resident, which triggers the requirement for an additional parking space.

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).

Petitioners have met this test. The Petitioners are constrained by existing site conditions, and the property is therefore unique. Petitioners would experience a practical difficulty if the regulations were strictly interpreted, since they would be unable to accommodate a 4th patient in the ALF. 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 lack of County and/or community opposition. In addition, Ms. Archer noted there is ample on-street parking near her home to accommodate the needs of her and her patients, and given the lot size of the subject property she noted that her ALF could accommodate no more than 4 beds/patients. In these circumstances, I do not believe the grant of relief would be injurious in any way to the community.

THEREFORE, IT IS ORDERED, this 10th day of June, 2015, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations ("B.C.Z.R) §409.6.A.1 to provide one (1) usable off-street parking space for a four (4) bed ALF in lieu of the required two (2) parking spaces, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.

2. Petitioners must submit for approval by the County's landscape architect a landscape plan for the site.

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