

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(9412 Belair Road)		
11 th Election District	*	OFFICE OF
6 th Council District		
Maliheh Investment Properties, LLC	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Petitioner	*	FOR BALTIMORE COUNTY
	*	Case No. 2015-0112-X

* * * * *

ORDER ON MOTION FOR RECONSIDERATION

Now pending is a Motion for Reconsideration filed by the Office of People’s Counsel, and an opposition thereto filed by the Petitioner. The issue at hand concerns whether the RTA regulations are applicable in this case, and if so, whether they can/should be modified or varianced.

The original Order submitted by the undersigned generated some of the confusion in this regard. In reviewing the site plan, I focused on the adjacent R.O.A. zone and held that such a zone does not trigger the RTA regulations. February 4, 2015 Order, p.3. That continues to be my opinion, but that is not the “holding” of this Order; indeed, as Mr. Zimmerman notes, the issue of whether an R.O.A. zone generates a R.T.A is purely “academic” in this case given that (and this was the point overlooked in the original Order) the subject property is in fact adjacent to D.R. 3.5-zoned property. Thus, the RTA regulations are applicable.

The next issue concerns whether those regulations are subject to modification in the circumstances of this case, or whether variance relief is required. I believe, as noted in the original Order and as suggested by the DOP, that a modification of the RTA regulations is appropriate in this case. I believe that the RTA modifications granted in Case No. 94-405-XA are still applicable

(given zoning relief “runs with the land”) and all that is required at this juncture is a slight enlargement of the modifications granted in 1994.

For present purposes, it suffices to say that the testimony of Mr. Wells and the ZAC comment of the DOP lead me to believe the slight incursions upon the RTA setbacks will not detrimentally impact the neighborhood. This point is also underscored by the fact that none of the neighboring owners along Pinedale Drive - - i.e., the “beneficiaries” of the RTA setbacks - - voiced any concern in this case. The Petitioner’s facility has been at the present location for many years, and it performs a vital function for the aging population in the area. Indeed, Mr. Varzandeh (principal of the entity owner) explained that his facility cares for many local residents, and has also received grants from the Baltimore County Department of Aging in recognition of these services. In these circumstances, I do not believe that the slight modifications of the RTA setbacks will in any way have a negative impact upon the community; to the contrary, I believe it will enable Petitioner to expand his facility to meet the demand for such convalescent services.

Petitioner has submitted a revised site plan (dated March 12, 2015) that will be marked as Exhibit 5. Thereon, Mr. Wells has indicated (in green line revisions) the 75' and 100' RTA setback and limits, and as Ms. Busse notes in her March 13, 2015 correspondence, only two small portions of the proposed building addition as well as a small portion of the existing parking area will intrude upon the RTA setbacks.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 19th day of March, 2015, that the Motion for Reconsideration be and is hereby GRANTED to the extent that the RTA regulations shall be applicable in this case.

IT IS FURTHER ORDERED that modifications to the RTA requirements be and are hereby GRANTED, such that portions of the proposed building addition and existing parking area

(as more particularly shown on the revised site plan marked and admitted as Exhibit 5) shall be permitted within the RTA setback.

IT IS FURTHER ORDERED that all other terms and conditions included in the original Order dated February 4, 2015 shall continue in full force and effect.

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