

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
<b>(504 Nollmeyer Road)</b>		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
6 <sup>th</sup> Council District		
Kenneth R. & Yvonne E. Barracks Francis	*	HEARINGS FOR
<i>Legal Owners</i>		
	*	BALTIMORE COUNTY
Petitioners		
	*	<b>CASE NO. 2016-0167-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of Kenneth & Yvonne Francis, legal owners of the subject property (“Petitioners”). The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: (1) to permit the parking area [for an assisted living facility (ALF)] to be 0 ft. from the side property line in lieu of the required 10 ft. pursuant to §432A.1.C.1; and (2) to permit the parking and delivery area to be located in the front yard in lieu of the side and rear yards, pursuant to §432A.1.C.2. A site plan was marked as Petitioners’ Exhibit 1.

Kenneth and Yvonne Francis appeared in support of the Petition. Bruce E. Doak, surveyor from Bruce E. Doak Consulting, LLC assisted Petitioners. Numerous community members attended the hearing and opposed the requests. The Petition was advertised and posted as required by the B.C.Z.R. No substantive Zoning Advisory Committee (ZAC) comments were received.

The subject property is approximately 7,480 square feet and is zoned DR 5.5. The property is improved with a single family dwelling, which is the Petitioners’ principal residence. Petitioners propose to operate an ALF at the property providing care for three patients, but require zoning

relief to comply with the parking requirements for such a use.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

*Cromwell v. Ward*, 102 Md. App. 691 (1995).

Petitioners cannot satisfy the stringent requirements for variance relief. While Petitioners appear to be conscientious and capable, the reality is their property is essentially the same size, shape and configuration as others in the neighborhood. In requesting a zoning variance, petitioners face an uphill battle. In fact, there are no Maryland appellate court opinions from the last twenty years which have upheld the grant of a variance. Under Maryland law, variances should be granted “sparingly” since it is “an authorization for [that] ...which is prohibited by a zoning ordinance.” *Cromwell*, 102 Md. App. at 699 (1995).

THEREFORE, IT IS ORDERED, this 28<sup>th</sup> day of **March, 2016**, 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.”): as follows: (1) to permit the parking area to be 0 ft. from the side property line in lieu of the required 10 ft. pursuant to §432A.1.C.1; and (2) to permit the parking and delivery area to be located in the front yard in lieu of the side and rear yards, pursuant to §432A.1.C.2, 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