

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(3927 Algiers Road)		
2 nd Election District	*	OF ADMINISTRATIVE
4 th Council District		
Karen Lloyd-Williams	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2016-0032-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 Karen Lloyd-Williams, owner of the subject property (“Petitioner”). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §432A.1.C.1 to permit parking for a potential Assisted Living Facility (ALF) to be located on an existing driveway that is 8 ft. from the side property line in lieu of the required minimum distance of 10 ft. A site plan was marked as Petitioner’s Exhibit 1.

Karen Lloyd-Williams appeared in support of the petition. The Petition was advertised and posted as required by the B.C.Z.R. No protestants or interested citizens attended the hearing. Substantive Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPR) and the Department of Planning (DOP). The concerns identified by those agencies will be included as conditions in the Order below.

The subject property is approximately 8,268 square feet and is zoned DR 5.5. The property is improved with a single-family dwelling. Petitioner, who is a nurse, proposes to operate on the property an assisted living facility with 4 patients, although she has yet to obtain the necessary state and county permits and licensure. This case concerns only a variance for the parking requirements associated with the ALF 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).

Petitioner has met this test. The Petitioner must contend with long-existing site conditions, and thus the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because she would be unable to operate the ALF at the subject property. 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 lack of Baltimore County and/or community opposition.

THEREFORE, IT IS ORDERED, this 6th day of October, 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.”) §432A.1.C.1 to permit parking for a potential Assisted Living Facility to be located on an existing driveway that is 8 ft. from the side property line in lieu of the required minimum distance of 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. There shall be no parking for the ALF in the front of the subject property.
3. There shall be a maximum of four (4) clients/patients at the ALF.
4. Petitioner must provide landscaping as determined in the sole discretion of the Baltimore County Landscape Architect.

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