

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(295 S. Stuart Street)		
15 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
Rhonda & Raymond Zaquen	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2015-0029-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 the legal owners of the subject property. The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §432A.1.C, to permit two (2) parking spaces to be located in the front yard in lieu of the required side or rear yards, at least 10 ft. removed from the side property line, for an assisted living facility. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Rhonda and Raymond Zaquen appeared in support of the requests. There were no protestants or interested citizens in attendance at the hearing. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) dated August 27, 2014 and Department of Environmental Protection and Sustainability (DEPS) dated October 14, 2014. DEPS noted Petitioners must comply with the Critical Area regulations, while DOP suggested several conditions for inclusion in the final Order. Although the correspondence was not so captioned, the DOP’s ZAC comment shall be considered the “compatibility finding” required by B.C.Z.R. § 432A.1.D.

The subject property is approximately 0.1406 acres and is zoned DR 5.5. The property is improved with a single family dwelling constructed in 2006. Petitioners would like to operate an Assisted Living Facility (ALF) at the property, but require variance relief with regard to the parking requirements.

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 property is irregularly shaped and is therefore unique. If the B.C.Z.R. were strictly interpreted, Petitioners would suffer a practical difficulty, given they would be unable to operate the assisted living facility at the site. 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, conditions will be imposed below to ensure that the ALF use does not have a detrimental impact upon the community.

THEREFORE, IT IS ORDERED, this 3rd day of December, 2014, 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, to permit two (2) parking spaces to be located in the front yard in lieu of the required side or rear yards, at least 10 ft. removed from the side property line, for an assisted living facility, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed,

Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. Petitioners must comply with the ZAC comment submitted by the DOP, which is attached hereto and incorporated herein.
3. The approval granted herein pertains only to the parking requirements for an ALF. Petitioners must obtain from the Department of Permits, Approvals and Inspections a use permit for the operation of the ALF, and must also obtain all permits and licenses required by the State of Maryland for the operation of such a facility.

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