

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(125 Nunnery Lane)		
1 st Election District	*	OF ADMINISTRATIVE
1 st Council District		
Kelvin & Pamela Jones	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2016-0104-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 Kelvin & Pamela Jones, owners of the subject property (“Petitioners”). The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §432A.1.C.1 to permit a parking space for a proposed assisted living facility to be as close as 5 ft. from a property line in lieu of the required 10 ft. A site plan was marked as Petitioners’ Exhibit 1.

Owner Pamela Jones 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. A Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency opposed the relief, but also provided suggested conditions for inclusion in any final Order granting relief.

The subject property is approximately 2,090 square feet and is zoned DR 16. The property is improved with a 3 bedroom townhouse, which Petitioners have owned since 1997. Ms. Jones is a registered nurse and she described her wealth of experience in geriatrics and caring for the elderly. She would like to care for elderly residents in her home, which would under the B.C.Z.R. constitute an Assisted Living Facility (ALF).

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 have met this test. The property is narrow and deep and is therefore unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to care for elderly individuals in their home. 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 community opposition. In fact, Petitioners submitted letters of support from both of their adjoining neighbors. (Exhibit 2).

THEREFORE, IT IS ORDERED, this 30th day of December, 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 a parking space for a proposed assisted living facility to be as close as 5 ft. from a property line in lieu of the required 10 ft., 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 prior to the issuance of permits comply with each of the four (4) requirements set forth in the DOP ZAC comment, a copy of which is

attached hereto.

3. Petitioners must obtain from Baltimore County a “use permit” for the ALF, and must obtain all other required licenses, permits and inspections from the State of Maryland and Baltimore County.
4. No signs shall be permitted on the premises in conjunction with the proposed ALF.

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