

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(521 E. Joppa Road)	*	OFFICE OF
9 <sup>th</sup> Election District		
5 <sup>th</sup> Council District	*	ADMINISTRATIVE HEARINGS
521 E. Joppa Road, LLC.		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Nursez R US- <i>Lessee</i>		
Petitioners	*	<b>Case No. 2017-0182-SPHA</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of 521 E. Joppa Road, LLC, legal owner and Nursez R US, lessee (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R) to amend the previously approved plan in Case No. 1983-281-X. In addition, a Petition for Variance seeks to allow an amenity open space area of 20% of the gross site area in lieu of the required 25%. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Shontel Adams and landscape architect Thomas Hoff appeared in support of the requests. Abraham L. Hurdle, Esq. represented the Petitioners. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. No substantive Zoning Advisory Committee (ZAC) comments were received.

The subject property is approximately 0.655 acres in size and is zoned RO & DR 10.5. Though the property was originally improved with a single-family dwelling, a class B office building was constructed at the site in or about 1983, pursuant to a special exception granted in Case No. 1983-0281-X. Petitioner proposes to lease a portion of the building to operate an adult day care facility at the site, which Mr. Hoff indicated was a permitted use in the RO zone. Only interior alterations will be made to the leased space. The primary reason for the petition is to “legitimize” the Class B office building use. That is, though

the 1983 regulations (which are applicable in this case pursuant to B.C.Z.R. §502.8) required amenity open space of 25% of the gross site area, only 20% was ever provided when the building was initially constructed. The sole variance request seeks to permit this 20% open space in lieu of the required 25%.

### SPECIAL HEARING

The Petition for special hearing is in essence a “housekeeping” request, in that it seeks to amend the site plan submitted and approved in the 1983 case. Mr. Hoff produced a copy of that plan (Petitioners’ Ex. 2) and explained there would be no exterior changes or construction of any sort. As such, the petition will be granted, and the site plan marked and admitted herein as Petitioners’ Exhibit 1 shall amend and supersede the original plan which was admitted as Exhibit 2.

### VARIANCE

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 has irregular dimensions and is therefore unique. Petitioners would experience practical difficulty if the regulations were strictly interpreted because they would be unable to operate the new business at the location. Finally, as demonstrated by the lack of County and/or community opposition, I do not believe granting the requests would have a detrimental impact upon the community.

THEREFORE, IT IS ORDERED this 10<sup>th</sup> day of March, **2017**, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning

Regulations (“B.C.Z.R) to amend the previously approved plan in Case No. 1983-281-X, as shown on the site plan marked herein as Petitioners’ Exhibit 1, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the petition for variance to allow an amenity open space area of 20% of the gross site area in lieu of the required 25%, be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon 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.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JEB/sln

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County