

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(9851 Branchleigh Road)		
2 nd Election District	*	OF ADMINISTRATIVE
4 th Council District		
HP Maryland LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2017-0316-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed on behalf of HP Maryland LLC, the legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from § 432A of the Baltimore County Zoning Regulations (“B.C.Z.R) to permit parking in front yard with a zero side yard setback for a proposed Assisted Living Facility I in lieu of the required side or rear yard only with a minimum of a 10 ft. side setback. A site plan was marked as Petitioner’s Exhibit 1.

Sabrina Kent appeared in support of the petition. A neighbor (Edith Bouie) attended to obtain additional information about the request. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency did not oppose the request.

The site is approximately 8,125 square feet in size and zoned DR 3.5. The property is improved with a single family dwelling constructed in 1972. The Petitioner proposes to operate an Assisted Living Facility at the property, with 4 residents/patients. To do so Petitioner will need a license from the State of Maryland and a use permit (along with a compatibility finding by the DOP) from Baltimore County. This case concerns only the parking requirements found in the Assisted Living Facility regulations.

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).

The property has irregular dimensions and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to operate the Assisted Living Facility. Finally, I find that the variances 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 and/or Baltimore County opposition. The DOP visited the site and did not believe two vehicles could park in the existing driveway without obstructing the public sidewalk. Petitioner disagreed, and its site plan indicated the driveway was suitable for “tandem parking.” In any event, Petitioner noted vehicles can park safely along Branchleigh Road, and an aerial photograph from the My Neighborhood site confirmed this fact.

THEREFORE, IT IS ORDERED, this 17th day of **July, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 432A of the Baltimore County Zoning Regulations (“B.C.Z.R) to permit parking in front yard with a zero side yard setback for a proposed Assisted Living Facility I in lieu of the required side or rear yard only with a minimum of a 10 ft. side setback, 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 its 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. No signage shall be permitted at the premises.
3. Petitioner must obtain from the State of Maryland and Baltimore County all licenses, permits, inspections and other approvals necessary for the operation of an Assisted Living Facility I.

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