

<b>IN RE: PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE OFFICE
(9611 McDaniel Ave.)		
15 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
7 <sup>th</sup> Council District		
John P. Fitts, Jr.	*	HEARINGS FOR
<i>Legal Owner</i>	*	BALTIMORE COUNTY
Petitioner	*	<b>CASE NO. 2020-0079-SPH</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Special Hearing filed by John P. Fitts, Jr., legal owner of the subject property (“Petitioner”). The Petitioner is seeking a Use Permit via Special Hearing relief from § 432.A.1.A(2) of the Baltimore County Zoning Regulations (“BCZR”) to permit an Assisted Living Facility (“ALF”) property to be used as an (8) eight bed ALF II in lieu of the permitted seven (7) bed ALF II without frontage on an arterial street.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and the Department of Plans Review (“DPR”). They did not oppose the requested relief.

Petitioners, Christina and John Fitts appeared in support of the petition. There were no Protestants in attendance. The subject property is 17,424 square feet in size and is zoned DR 5.5, M-IM. Ms. Fitts explained that she and her husband currently operate a similar Assisted Living Facility (ALF) in Randallstown. They and their staff are state licensed and supervised. She further testified that she has spoken with the neighbors at this proposed location and they are in support of the proposed use. Petitioner submitted a detailed explanation of why they chose this location

and why the proposed ALF will not adversely impact the health, safety or welfare of the surrounding neighborhood. *See*, Petitioners' Exhibit 1. Petitioners note that there is a business directly across the street, and a manufacturing zone behind them. There is only one residence in close proximity. Further, there are twice as many parking spaces as required.

Based on the testimony and exhibits I find that the Petition for Special Hearing relief should be granted. The DOP did not raise any compatibility concerns and I find that this use will in fact be compatible with the existing neighborhood. Further, I find that the ALF use is within the spirit and intent of the BCZR and will not harm the general health, safety, or welfare.

THEREFORE, IT IS ORDERED this 28<sup>th</sup> day of **September, 2020** by this Administrative Law Judge, that the Petition for Special Hearing seeking relief from § 432.A.1.A(2), for a Use Permit to operate an eight (8) bed Assisted Living Facility II without frontage on an arterial street in lieu of the permitted seven (7) bed Assisted Living Facility I, is hereby GRANTED.

The relief granted herein shall be subject to the following:

- 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 his 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.
- Petitioner must comply with the DPR ZAC comments, which are attached hereto and make a party thereof.

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

Signed \_\_\_\_\_  
PAUL M. MAYHEW  
Managing Administrative Law Judge  
for Baltimore County

PMM:dlm