

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
<b>(9307 Master Derby Drive)</b>		
2nd Election District	*	OFFICE OF ADMINISTRATIVE
4th Council District		
Kimberly Dorsey and Mattie White	*	HEARINGS OF
Legal Owners	*	BALTIMORE COUNTY
<b>Petitioners</b>	*	<b>CASE NO: 2021-0200-A</b>

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by the Petitioners, Kimberly Dorey and Mattie White for property located at 9307 Master Derby Drive. The Petitioners are requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) 409.6.A.1 and 432A.1.C.2 to permit 2 usable off-street parking spaces in lieu of the required 3 parking spaces and to permit the parking and delivery areas to be located in the front yard in lieu of the required side and rear yard only.

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”) they did not oppose the requested relief, subject to proposed conditions, which will be incorporated into the Order. There were no protestants or interested citizens that appeared at the hearing.

The Petitioner, Kimberly Clark, appeared at the hearing. Bruce E. Doak of Bruce E. Doak Consulting appeared and assisted the Petitioners. The subject property is approximately 3,333 sq. ft. and is zoned OR 2. Mr. Doak explained the site plan and the need for the variance relief.

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 site is unique in that it is a long narrow end unit townhouse lot. Mr. Doak explained that there is actually a third parking space in the ground level garage of the dwelling so that the two space variance is actually a technicality. Further, there is no feasible access to the rear or side yards, which necessitates this aspect of the variance relief. I find that the Petitioners would suffer practical difficulty and hardship if the variances were denied because they would be unable to operate the proposed Assisted Living Facility. I further find that the variances can be granted within the spirit and intent of the BCZR and without harming the public health, safety or welfare.

THEREFORE, IT IS ORDERED, this 12<sup>th</sup> day of **October 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR § 409.6.A.1 and 432A.1.C.2 to permit 2 usable off-street parking spaces in lieu of the required 3 parking spaces and to permit the parking and delivery areas to be located in the front yard in lieu of the required side and rear yard only is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

- 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.
- Petitioners must comply with the DOP ZAC comment, a copy of which are attached hereto and made a part thereof.

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

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

PMM/dlm