

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(1937 Silver Lane)</b>		
15 <sup>th</sup> Election District	*	OFFICE OF
7 <sup>th</sup> Council District		
Deborah J. Cascio & Terri L. Miller	*	ADMINISTRATIVE HEARINGS
<i>Legal Owners</i>		
Petitioners	*	FOR BALTIMORE COUNTY
	*	<b>Case No. 2018-0024-SPH</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Deborah J. Cascio & Terri L. Miller, legal owners (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R”) as follows: (1) to allow Lots 505 and 506 to be merged because of the existing driveway; (2) to allow Lot 506 to be increased from 0.23 ac. to 0.94 ac.; and (3) to allow the existing Lot 505 and the proposed Lot 506 to have the total of 1.15 ac. in lieu of the required 1.5 ac. in a RC 5 zone.

Deborah Cascio and professional engineer William Bafitis appeared in support of the petition. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Environmental Protection and Sustainability (DEPS) and the Department of Planning (DOP). Neither agency opposed the requests. A site plan was marked and admitted as Petitioners’ Exhibit 1.

The subject property is approximately 2.65 acres in size (in the aggregate) and zoned RC-5. The property is improved with a single family dwelling constructed in 1990. According to state

tax records, the dwelling is situated on Lots 505 (presently 0.21 AC.) and 506 (presently 0.23 AC.) as shown on the plat of Cedar Beach. However, as Mr. Bafitis stated, the home was in fact constructed on a larger parcel of land to the rear of those lots (also owned by Petitioners) which at present is approximately 2.2 acres. Petitioners propose to reconfigure Lot 506, which would be enlarged to 0.94 acres. The reconfiguration of the lot would enable the single family dwelling to be situated entirely within the boundaries of Lots 505 and 506, which will in turn allow Petitioners to convey a marketable title to the property.

Petitioners have used Lots 505 and 506 in conjunction with the dwelling they have owned for nearly 30 years. An owner desiring to combine lots to facilitate a project using both parcels is entitled to do so. *Friends of the Ridge v. BGE*, 352 Md. 645 (1999). Thus the first special hearing request will be granted. The second request essentially involves a lot line adjustment, approval of which must be granted by the Development Review Committee (DRC). Mr. Bafitis indicated the zoning request to enlarge Lot 506 from 0.23 ac to 0.94 ac. was made prior to the DRC application at the request of County staff. The third and final request concerns a unique provision (§1A04.3.B) in the RC 5 regulations whereby a lot not meeting the 1.5 acre minimum lot size requirement can be approved by way of a special hearing. Though the Regulations do not specify exactly what must be shown to justify such relief, I believe the present request is a reasonable one in that it concerns a dwelling which was constructed nearly 30 years ago and granting the request will not result in an increase in density or in any way overcrowd the land or neighborhood.

THEREFORE, IT IS ORDERED this 15<sup>th</sup> day of **September, 2017** by this Administrative Law Judge, that the Petition for Special Hearing as follows: (1) to allow Lots 505 and 506 to be merged because of the existing driveway; (2) to allow Lot 506 to be increased from 0.23 ac. to

0.94 ac.; and (3) to allow the existing Lot 505 and the proposed Lot 506 (after merger) to total 1.15 acres in lieu of the required 1.5 acres required in the RC-5 zone, 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.
2. Petitioners must prior to issuance of permits satisfy critical area regulations.
3. The special hearing approvals granted herein involve an interpretation of the B.C.Z.R. only, and shall not be construed as creating buildable lots or reconfiguring lot lines. Those are development matters which must be reviewed and approved by the Baltimore County Department of Permits, Approvals and Inspections.

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

Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:sln