

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(2712 Holly Beach Road)		
15 th Election District	*	OFFICE OF
7 th Council District		
John F. & Ann R. Whelehan	*	ADMINISTRATIVE HEARINGS
<i>Legal Owners</i>		
Petitioners	*	FOR BALTIMORE COUNTY
	*	Case No. 2018-0032-SPH

* * * * *

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 John F. & Ann Whelehan, legal owners (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to approve an amendment to the order and site plan in Case No. 2017-0132-A to allow the previously approved 33 ft. side yard setback to be reduced to 29 ft.

John & Ann Whelehan and Bernadette Moskunas with Site Rite Surveying 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. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Environmental Protection and Sustainability (DEPS). A redlined site plan was marked and admitted as Petitioners’ Exhibit 1.

The subject property is approximately 0.57 acres in size and zoned RC-5. The property is improved with a single family dwelling constructed in 1924. Petitioners propose to raze that structure and construct a new dwelling on the lot. Earlier this year, Petitioners were granted variance relief in connection with the proposed replacement dwelling. That order (No. 2017-0132-

A) granted variances from the onerous RC-5 side yard setback requirements, permitting setbacks of 5 ft. and 33 ft., both in lieu of the 50 ft. required.

Following that hearing Petitioners revised slightly the plans to accommodate their nearest neighbor at 2716 Holly Beach Road. As a consequence of that revision, the side yard setback on the eastern boundary was reduced from 33 ft. to 29 ft. The other side yard will remain at 5 ft. Both adjoining neighbors signed the site plan and indicated they did not oppose the request. Pets. Ex. 2.

THEREFORE, IT IS ORDERED this 27th day of **September, 2017** by this Administrative Law Judge, that the Petition for Special Hearing to approve an amendment to the order and site plan in Zoning Case No. 2017-0132-A to allow the previously approved 33 ft. side yard setback to be reduced to 29 ft., 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 comply with the Chesapeake Bay Critical Area regulations.

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