

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(10 Shipley Avenue)	*	OFFICE OF
1 st Election District		
1 st Council District	*	ADMINISTRATIVE HEARINGS
St. Ambrose Housing Aid Center, Inc.	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	Case No. 2018-0114-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of St. Ambrose Housing Aid Center, Inc., legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to amend the boundaries of an existing undersized lot. A petition for variance seeks to permit a side yard setback for a two story addition of 8.26 ft. in lieu of the required 10 ft. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 2.

David Sann, Kevin O’Reilly and surveyor Bruce Doak appeared in support of the requests. Gary Brooks, Esq. represented the Petitioner. 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 Planning (DOP). That agency supports the requests.

SPECIAL HEARING

This case was combined for hearing with No. 2018-0113-SPH, and the Order in that case contains a more thorough discussion of the factual background for these matters. For present purposes it will suffice to state that the above case concerns 10 Shipley Avenue (Lot 59 on the

plat of Winters Heights), on which is located one-half of a duplex dwelling constructed in 1908. The special hearing relief would simply adjust the lot lines which bisect this dwelling such that each unit would be located on its own lot. This is a reasonable request which will not have any discernable impact upon the community. As a result of the adjustment, Lot 59 will be increased in size from 3,516 sq. ft. to 3,646 sq. ft. Lot 58 (also owned by Petitioner and improved with a single-family dwelling known as 12 Shipley Ave.) would decrease in size, from 8,325 sq. ft. to 6,984 sq. ft.

VARIANCE

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).

These lots were created by a plat recorded in 1923, and Petitioner must contend with site improvements which have existed for over 100 years. As such the property is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be required to raze or relocate the existing dwelling. Finally, I find that the variance 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 support of the community and Baltimore County.

THEREFORE, IT IS ORDERED this 5th day of **January, 2018**, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to approve an amendment of the boundary of Lot Nos. 58 & 59

as shown on the highlighted site plan admitted herein as Petitioner's Ex. No. 2, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit a side yard setback for a two story addition of 8.26 ft. in lieu of the required 10 ft., 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 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.
2. Prior to issuance of permit(s) Petitioner must obtain approval from Baltimore County for a lot line adjustment concerning Lots 58, 59 and 60 as shown on the plat of Winters Heights.

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