

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(41 Northwood Road)	*	OFFICE OF
8 th Election District		
3 rd Council District	*	ADMINISTRATIVE HEARINGS
Dennis Kandratic	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	Case No. 2018-0117-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 Dennis Kandratic, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to confirm Lot No. 1 (41 Northwood Road) is no longer merged with Lot Nos. 51 and 53 (39 Northwood Road). A petition for variance seeks to permit a lot width of 50 ft. in lieu of the required 55 ft. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Charles Merritt and owners Dennis and Karen Kandratic appeared in support of the requests. 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 did not oppose the request.

SPECIAL HEARING

This case was combined for hearing with No. 2018-0118-SPHA; the cases involve adjoining 50’ wide lots in the Yorkshire subdivision. The above case concerns 41 Northwood Road, a lot which is 7,500 square feet in size (50’ x 150’). The lot is improved with a garage

which was used in connection with the dwelling at 39 Northwood Road, although Petitioner intends to raze that structure and construct a single-family dwelling on the lot. In these circumstances (and assuming the garage is razed) I do not believe the lots would be merged.

Petitioner stated the proposed single-family dwelling would comply with all height and area regulations for the DR 5.5 zone. The only deficiency would be lot width; i.e., 50 ft. in lieu of the required 55 ft. The lot was created by a plat recorded long before adoption of the B.C.Z.R., and in these circumstances I believe Petitioner is entitled to construct a single-family dwelling on the lot pursuant to B.C.Z.R. §304. This provision is entitled “Use of Undersized Single-Family Lots” and does not require a showing of uniqueness or practical difficulty, as is required in a variance case under B.C.Z.R. §307. *Mueller v. People’s Counsel*, 177 Md. App. 43 (2007). Most of the homes adjacent to the subject property are situated on 50 ft. wide lots, and thus I believe the proposed dwelling would be “appropriate” and compatible with the pattern of the neighborhood pursuant to B.C.Z.R. §304.4.

THEREFORE, IT IS ORDERED this 29th day of **December, 2017**, 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 confirm Lot No. 1 (41 Northwood Road) is no longer merged with Lot Nos. 51 and 53 (39 Northwood Road), be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance seeking to permit a lot width of 50 ft. in lieu of the required 55 ft., be and is hereby DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED Petitioner has satisfied the requirements of B.C.Z.R. §304 and may construct a single-family dwelling on Lot No. 1 (41 Northwood Road).

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. Any new dwelling constructed on the lot must comply with the height and area regulations applicable in the DR 5.5 zone, including B.C.Z.R. §303.1 concerning front yard depths.

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