

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(5 A Elmont Avenue)</b>		
14 <sup>th</sup> Election District	*	OFFICE OF
6 <sup>th</sup> Council District		
OMO Dynasty LLC	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Petitioner	*	FOR BALTIMORE COUNTY
	*	<b>Case No. 2018-0157-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 OMO Dynasty LLC, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve the construction of a single family residence on an undersized lot.

Professional engineer Rick Richardson, Travis Omopariola and Chase Freeman appeared in support of the petition. Several neighbors attended the hearing and opposed the request. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. No substantive Zoning Advisory Committee (ZAC) comments were received from any of the reviewing county agencies. A site plan was marked and admitted as Petitioner’s Exhibit 2.

This case involves an unimproved lot zoned DR 5.5 in the Fullerton area of Baltimore County. The lot is 50’ x 189’ or approximately 8,936 sq. ft. The lot (identified as Lot No. 46) was created in or about 1915 by the Plat of “Pinehurst.” Pet. Ex. 1. The lot is 50 ft. wide, while the current regulations require a 55 ft. lot width.

Petitioner submitted plans prepared by an architect (Exhibit 4) which include elevation drawings showing the 2-story dwelling proposed for the site. The dwelling would be 30 ft. wide, and there would be 10 ft. side yards on both sides of the home, as required by the DR 5.5

regulations.

The B.C.Z.R. contains an undersized lot regulation which applies in cases like this one, where a building lot was created long before adoption of the zoning regulations in 1945. *See* B.C.Z.R. §304.1. An owner is permitted to construct a single-family dwelling on a lot that does not satisfy the minimum lot width requirement, and the Petitioner satisfies each of the three requirements set forth in that regulation.

An owner is also required to show that a dwelling would be appropriate on the lot in question, and I believe Petitioner has satisfied this requirement. Mr. Richardson submitted an aerial photo (Exhibit 3) which shows that the great majority of homes in the area are situated on 50 ft. wide lots. In its October 30, 2017 comment, the Department of Planning noted lots of this size “and undersized lots overall are not uncommon in this area.” As such I believe it is “appropriate” to construct a single-family dwelling on this lot. *See* B.C.Z.R. §304.4. A neighbor inquired as to whether Petitioner would agree to increase the side yard setbacks to 12 ft. instead of 10 ft. as shown on the site plan. The Petitioner indicated his architect has already prepared plans for the proposed dwelling, and the DR 5.5 zone requires only a 10 ft. side yard setback.

THEREFORE, IT IS ORDERED this 26<sup>th</sup> day of **January, 2018**, by this Administrative Law Judge, that the Petition for Special Hearing to approve the construction of a single-family dwelling on an undersized lot (i.e., lot width of 50 ft. in lieu of required 55 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.

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

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Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB: sln