

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(7938 33<sup>rd</sup> Street)</b>		
14 <sup>th</sup> Election District	*	OFFICE OF
6 <sup>th</sup> Council District		
MDC Investments, LLC	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Petitioner	*	FOR BALTIMORE COUNTY
	*	<b>Case No. 2018-0236-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 MDC Investments, LLC, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve a building permit for an undersized lot in a DR 5.5 zone having a lot width of 50 ft. in lieu of the required 55 ft. per BCZR § 1B02.3.C.1. A site plan was marked and admitted as Petitioner’s Exhibit 1.

Michael Casey and professional engineer John Motsco appeared in support of the petition. Howard L. Alderman Jr., Esq., represented the Petitioner. A neighbor attended the hearing to obtain additional information about the request. 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 Bureau of Development Plans Review (DPR).

As explained at the hearing this is a request under BCZR §304, which concerns undersized lots. Under that regulation an owner may construct a single-family dwelling on a lot with deficient area or lot width, provided all other area and height regulations are satisfied. The plan shows all setbacks will meet DR 5.5 requirements. In addition, the lot was created by the Plat of Rosedale

Farms recorded in 1920 (Pet. Ex. 4) and the Petitioner does not own any adjoining land by which it might cure the lot width deficiency. As such, I find Petitioner has satisfied all requirements set forth in BCZR §304.1, and the Petition will be granted. *See Mueller v. People's Counsel*, 177 Md. App. 43 (2007) (discussing application of BCZR §304). Since the undersigned is not authorized to issue building permits, the order which follows will be worded differently than the request in the Petition.

THEREFORE, IT IS ORDERED this **30th** day of **April, 2018** by this Administrative Law Judge, that the Petition for Special Hearing to determine that it is appropriate in the context of this case to construct a single-family dwelling on an undersized lot in a DR 5.5 zone having a lot width of 50 ft. in lieu of the required 55 ft. per BCZR §1B02.3.C.1, be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon 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 its 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. Petitioner must comply with the ZAC comments submitted by the DEPS and DPR, copies of which are attached hereto.

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