

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(958 Seneca Park Road)	*	OFFICE OF
15 <sup>th</sup> Election District		
6 <sup>th</sup> Council District	*	ADMINISTRATIVE HEARINGS
Perry & Jill Sparr, <i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
Petitioners	*	<b>Case No. 2018-0338-SPHA</b>

\* \* \* \* \*

**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 Perry and Jill Sparr, legal owners (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a lot area of 9,675 sq. ft. for a single lot of record not in a subdivision and in existence prior to September 2, 2003. A Petition for Variance seeks to permit a building height of 45 ft., side yard setbacks of 10 ft. and 12 ft., a front yard setback of 40 ft. from the centerline of any other road or street and a lot coverage of 22.4% in lieu of the maximum permitted 35 ft., 50 ft., 75 ft. and 15% respectively for a new dwelling. A site plan was marked and accepted in to evidence as Petitioner’s Exhibit 1.

The owners and Dave Billingsley 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 B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Environmental Protection and Sustainability (“DEPS”), the Bureau of Development Plans review (“DPR”), and the Department of Planning (“DOP”). None of the reviewing agencies opposed the requests.

## SPECIAL HEARING

The lot in question was created by deed prior to the adoption of the BCZR. The lot is 9,675 sq. ft., which would satisfy the minimum lot size in the DR 5.5 zone (and would nearly satisfy the 10,000 sq. ft. lot size requirement in the DR 3.5 zone). This is an important fact because although the property is zoned RC-5 the density in the community equates to a DR 5.5 zone. Many homes in the community are situated on similar size lots, and granting the request will therefore have no discernable impact upon the neighborhood.

## VARIANCES

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).

The waterfront lot is long and narrow, and is therefore unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to construct the proposed 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 lack of community and/or Baltimore County opposition.

THEREFORE, IT IS ORDERED this **23rd** day of **July, 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 permit a lot area of 9,675 sq. ft. for a single lot of record not in a subdivision and in existence prior to September 2, 2003, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance seeking to permit a building height of 45 ft., side yard setbacks of 10 ft. and 12 ft., a front yard setback of 40 ft. from the centerline of any other road or street and a lot coverage of 22.4% in lieu of the maximum permitted 35 ft., 50 ft., 75 ft. and 15% respectively for a new dwelling, be and is hereby GRANTED.

The relief granted herein shall be subject to 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 comply with Critical Area and flood protection regulations.
3. Prior to issuance of permits Petitioners must obtain from the DOP a positive finding the RC-5 performance standards have been satisfied.

Any appeal of this decision must be made 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