

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(1122 Castanea Ct.)	*	OFFICE OF
8 th Election District		
2 nd Council District	*	ADMINISTRATIVE HEARINGS
Joseph Thomas Lorenz, IV, <i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
	*	
Petitioner	*	Case No. 2019-0303-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 Joseph Thomas Lorenz, IV, legal owner (“Petitioner”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to amend the Final Development Plan for Lot 1 of Castanea. A Petition for Variance was filed to permit a proposed dwelling with a side setback of 47.5 feet in lieu of the required 50 feet, and to amend the development plan for Castanea, Lot 1. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Ben Battaglia and Peggy White appeared in support of the requests. John B. Gontrum, Esq. represented Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. A substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Environmental Protection and Sustainability (“DEPS”). That agency did not oppose the request.

SPECIAL HEARING

The petition for Special Hearing is in essence a housekeeping matter. The Final Development Plan for Castanea will need to be amended to reflect the 47.5 ft. setback variance granted herein. This represents only a 5% reduction in the 50 ft. setback required. As such I believe the proposed

amendment is within the “spirit and intent of the original plan” as required by BCZR §1B01.3.A.7,
and the petition will therefore be granted.

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).

The lot has an irregular shape and grade changes across the site. As such the property is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because he would be required to raze and relocate the existing foundation. Finally, I find that the variance can be granted in harmony with the spirit and intent of the BCZR, 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 County and/or community opposition.

THEREFORE, IT IS ORDERED this 25th day of **June, 2019**, by this Administrative Law Judge, that the Petition for Special Hearing to amend the Final Development Plan for Lot 1 of Castanea, to reflect the variance granted herein, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit a proposed dwelling with a side setback of 47.5 feet in lieu of the required 50 feet, 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. Petitioner must comply with the ZAC comment submitted by the DEPS, a copy of which is attached hereto.
 3. Petitioner must submit to the Office of Administrative Hearings (“OAH”) within 15 days of the date hereof an amended site plan showing the 20' wide strip separating the subject property from Lot 15.

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