

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(Lot 14, Oella Avenue)	*	OFFICE OF
1 st Election District		
1 st Council District	*	ADMINISTRATIVE HEARINGS
Patricia & Raymond Holtschneider,		
<i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
Petitioners	*	Case No. 2019-0310-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 Patricia and Raymond Holtschneider, legal owners (“Petitioners”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to confirm that a merger did not take place between this lot and the adjacent lot at 107 Oella Avenue (Lot 13). A Petition for Variance was filed to permit a dwelling on a lot with a width of 117 ft. at the front foundation wall in lieu of the required 150 ft. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Patricia Holtschneider 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 BCZR. No substantive Zoning Advisory Committee (“ZAC”) comments were received from any of the County reviewing agencies.

SPECIAL HEARING

The Petitioners purchased the subject property earlier this month. The property is zoned DR-1, and is comprised of Lot Nos. 13 and 14 as shown on the plat of Stonewall Park. Lot 13 (which is the subject of companion case #2019-0311-SPHA) is improved with a single-family dwelling

known as 107 Oella Avenue. Lot 14, the subject property at issue in this case, is unimproved. Ms. Holtschneider testified the vacant lot is overgrown with trees and scrub vegetation. She stated there are no accessory structures on the lot. In light of this testimony, and in the absence of any evidence to show that a merger has occurred, the petition for special hearing will 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 plat creating lot 14 (the subject property) was recorded in 1921, long before adoption of the BCZR. As such the property is unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to construct a dwelling on the lot. Petitioners would likely be able to construct a single-family dwelling on the lot pursuant to the undersized lot regulation found at BCZR §304, which would not require a showing of uniqueness or practical difficulty. As such I believe granting the petition would be within the spirit and intent of the Regulations.

THEREFORE, IT IS ORDERED this **21st** day of **June, 2019**, by this Administrative Law Judge, that the Petition for Special Hearing to confirm that a merger did not take place between this lot and the adjacent lot at 107 Oella Avenue (Lot 13), be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit a dwelling on a lot with a width of 117 ft. at the front foundation wall in lieu of the required 150 ft., 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.

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