

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(138 Winters Lane)	*	OFFICE OF
1 <sup>st</sup> Election District		
1 <sup>st</sup> Council District	*	ADMINISTRATIVE HEARINGS
Beryl L. Moore		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Premier Equity Assets, LLC		
<i>Contract Purchaser</i>	*	
Petitioners		<b>Case No. 2019-0314-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 Beryl Moore, legal owner and Premier Equity Assets, LLC, contract purchaser (“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 occur between the subject property (138 Winters Lane) and the adjacent property (136 Winters Lane). In addition, a Petition for Variance was filed to permit a proposed single family detached dwelling with a lot width of 50 ft. in lieu of the minimum required 55 ft. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

David Schiavone and Sagar Patel appeared in support of the requests. One neighbor attended the hearing to obtain additional information about the request. 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 petition for special hearing seeks confirmation the subject property has not merged with the adjacent property at 136 Winters Lane. These adjoining properties are not in common ownership and the owner of 136 Winters Lane attended the hearing and indicated he was

unaware they were ever owned by the same individual. As such no merger could have occurred and the petition will be granted.

VARIANCE

The subject property is unimproved and is 0.22 acres in size. The property is zoned DR 5.5. To construct a suitable dwelling on the lot a single variance for lot width is required. As to the variance, it requires 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 subject property is narrow and deep (50' x 194') and is therefore unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to construct a single family dwelling on the lot. 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 absence of County and/or community opposition.

THEREFORE, IT IS ORDERED this 18<sup>th</sup> day of **July, 2019**, by this Administrative Law Judge, that the Petition for Special Hearing to confirm that a merger did not occur between the subject property (138 Winters Lane) and the adjacent property (136 Winters Lane), be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit a proposed single family detached dwelling with a lot width of 50 ft. in lieu of the minimum required 55 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.

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

LMS:sln