

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(Lots 8 & 9 New York Avenue)	*	OFFICE OF
13 th Election District		
1 st Council District	*	ADMINISTRATIVE HEARINGS
Guizhi Liang & Yonghul Yang		
<i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
Charles Hoffman, <i>Contract Purchaser</i>		
Petitioners	*	Case No. 2019-0325-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 Guizhi Liang & Yonghul Yang legal owners and Charles Hoffman, 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 take place between Lots 8 & 9 and the adjacent Lots at 2806 New York Avenue (Lots 6 & 7). In addition, a Petition for Variance was filed to permit a dwelling on a lot 50' wide in lieu of the required 55' lot width. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Charles Hoffman 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

This case was combined for hearing with Case No. 2019-0324-SPHA, which involved the adjacent property at 2806 New York Ave. Viewed in the aggregate these cases involve four contiguous 25 ft. wide lots as shown on the Plat of Baltimore Highlands. Lot Nos. 6 & 7 are

improved with a single-family dwelling known as 2806 New York Ave. Lot Nos. 8 & 9, the subject of this case, are unimproved.

Mr. Hoffman testified there are no structures or improvements of any kind located on the subject property (*i.e.*, Lot Nos. 8 & 9). In the absence of any testimony, photographs and/or other evidence showing the subject property was used in service of the dwelling at 2806 New York Ave., the petition for special hearing confirming that a merger has not occurred will be granted.

VARIANCE

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 lots comprising the subject property were created long before the 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 property. I also 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. Finally, as discussed briefly at the hearing, I believe Petitioners would be entitled to construct a dwelling on the property without obtaining a variance, pursuant to BCZR §304. That regulation permits (under certain conditions, which would be satisfied here) construction of a dwelling on an undersized lot where the only deficiency concerns lot width and/or lot area.

THEREFORE, IT IS ORDERED this 17th day of **July, 2019**, by this Administrative Law Judge, that the Petition for Special Hearing to confirm that a merger did not take place between Lots 8 & 9 and the adjacent Lots at 2806 New York Avenue (*i.e.*, Lots 6 & 7), be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to permit a dwelling on a lot 50' wide in lieu of the required 55' lot width, 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:slh