

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE OFFICE
(1827 Woodside Avenue)		
13 <sup>th</sup> Election District	*	OF ADMINISTRATIVE
1 <sup>st</sup> Council District		
CGB Consultants, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
Petitioner	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2019-0439-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County as a Petition for Variance filed by CGB Consultants, LLC, legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit an unimproved lot of record to have a lot width of 50 ft. in lieu of the required 55 ft. A site plan was marked as Petitioner’s Exhibit 4.

Charles G. Beall appeared in support of the petition. Three neighbors, Michael McAuliffe, Roxanne Rodey and William Carter attended the hearing. The Petition was advertised and posted as required by the BCZR. A substantive Zoning Advisory Committee (“ZAC”) comment was received from the Department of Planning (“DOP”).

The site is approximately 6,250 square feet in size and is zoned DR 5.5. The property is unimproved and is shown as Lot No. 501 on the plat of Halethorpe recorded prior to 1906.

Petitioner would like to construct a single-family dwelling on the lot although zoning relief is required since the minimum lot width in the DR 5.5 zone is 55 ft. The subject property exceeds the 6,000 sq. ft. minimum lot size requirement in the DR 5.5 zone; the only deficiency is lot width.

As discussed at the hearing, I believe this case is more appropriately resolved under BCZR Section 304, which (unlike Section 307) does not require a showing of uniqueness or practical difficulty. *Mueller v. People's Counsel*, 177 Md. App. 43 (2007) (discussing application of BCZR §304). The Petitioner satisfies each of the requirements set forth at BCZR Section 304.1:

1. The lot was created long before 1955;
2. The proposed dwelling would be constructed in compliance with the setback, height and area requirements of the DR 5.5 regulations; and
3. The owner does not own sufficient adjoining land to satisfy the lot width requirement.

While it is true Petitioner also owns the adjoining property at 1829 Woodside Avenue, that lot is also just 50 ft. wide and is improved with a single-family dwelling. This was exactly the same scenario at issue in *Mueller*, where the court of special appeals confirmed that such an owner could not “borrow” any land from his adjacent lot lest he render that property deficient (or, as in this case, further deficient) under the lot width or area requirements. *Id.* Most of the homes adjacent to the subject property are situated on 50 ft. wide lots, and thus I believe the proposed dwelling would be “appropriate” and compatible with the pattern of the neighborhood pursuant to BCZR §304.4.

THEREFORE, IT IS ORDERED, this 20<sup>th</sup> day of **November, 2019**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“BCZR”) to permit an unimproved lot of record to have a lot width of 50 ft. in lieu of the required 55 ft., 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 its 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.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

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Signed \_\_\_\_\_  
LAWRENCE M. STAHL  
Administrative Law Judge for  
Baltimore County

LMS:sln