

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(6120 (Lot 35) Rich Avenue & Lot 34 *	OFFICE OF
1 st Election District	
1 st Council District *	ADMINISTRATIVE HEARINGS
Guizhi Liang & Yonghul Yang *	FOR BALTIMORE COUNTY
<i>Legal Owners</i>	
Petitioners *	Case No. 2019-0517-SPHA
	2019-0518-A
* * * * *	* *

OPINION AND ORDER

These consolidated cases come before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and the Variance filed by the owners of the two (2) properties and the contract purchaser of Lot 34 Rich Avenue (Petitioner). Special Hearing was filed pursuant to §500.7 of the Baltimore County Zoning Regulations (“BCZR”) to confirm that a lot merger has not occurred between the 6120 Rich Avenue and the adjacent vacant parcel at 6122 Rich Avenue (Lot 34). In addition, a Petition for Variance was filed in this case seeking relief from § 1B02.3.C.1 of the (“BCZR”) to permit a proposed dwelling with a lot width of 50 ft. in lieu of the required minimum 55 ft. A site plan showing both adjacent lots was marked Petitioners’ Exhibit 1.

Maxim Gaudreauld, contract purchaser and Benjamin Gary of John Mellema, land surveyors 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.

Testimony that 6120 Rich Avenue is approximately 9,544 square foot and Lot 34 contains approximately 9,808 square foot in size. Both properties are zoned DR 5.5.

Mr. Gary testified that the existing structure on Lot 34 was constructed in 1953 upon a Plat that was approved in 1924. He further testified that there is no connection between this lot and the adjacent lot 34. Specifically he noted that there is no garage on the constructed site, its driveway is located completely on 6120 Rich Avenue and no land of Lot 34 is utilized by 6120 Rich Avenue. He further testified that the proposed dwelling will meet all of the setback height and area requirements of the DR 5.5 regulations and, as the lot is under contract for construction, the new owner would not own sufficient adjoining land to satisfy the otherwise required 55 foot minimum lot width.

SPECIAL HEARING

Based on the evidence detailed above, I find that no merger has occurred between the parcels at 6120 Rich Avenue and adjacent lot 34. I further find that Lot 34 has always been a separate lot.

VARIANCE

I believe this case is more appropriately resolved under BCZR § 304, which (unlike § 307) does not require a showing of uniqueness or practical difficulty, *Muller 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 § 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 adjoin land to satisfy the lot width requirement.

THEREFORE, IT IS ORDERED this 5th day of **February, 2020**, by this Administrative Law Judge, that the Petition for Special Hearing to confirm that a lot merger has not occurred with the adjacent vacant parcel at 6122 Rich Avenue (Lot 34), be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to construct the proposed dwelling on Lot 34 with a lot 50' width 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 _____
LAWRENCE M. STAHL
Administrative Law Judge
for Baltimore County

LMS: sln