

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Ellen McBarron Burger & Kirsten Burger– Legal Owners 16-158-SPHA

DATE: October 6, 2016

BOARD/PANEL: Maureen E. Murphy, Panel Chairman
 Meryl W. Rosen
 Benfred B. Alston

RECORDED BY: Tammy A. McDiarmid, Legal Secretary

PURPOSE: To deliberate the following:

Petition for Variance pursuant to § 1A04.3B2b of the BCZR to allow a setback of 30 feet in lieu of the required 50 feet from any lot line other than a street; and

Petition for Special Hearing pursuant to § 1A04.3B1 of the BCZR to allow a property area less than 1-1/2 acres (1.04 acres), and a density less than 0.5 for existing lots that were created prior to 1979.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board held a de novo hearing, which was part proffer, and part testimony.
- The Board noted that in July 2016 an Agreement was entered into between the Petitioners and neighbors, who protested the request at the hearing held before the Administrative Law Judge, and attached to the Agreement was a Site Plan.
- The Board reviewed the testimony and evidence presented at the hearing. In order to be granted a variance the property must meet the uniqueness requirement of *Cromwell v. Ward*. Mr. Doak presented testimony that the property was unique due to the stone walls from the old barn, the slope of the property, and the location of the septic reserve area. The Petitioner’s architect also felt that the property was unique due to the stone walls of the old barn.
- The Board noted no evidence or testimony was presented to contradict the uniqueness of the property.

DECISION BY BOARD MEMBERS:

The Board finds that the property is unique by the standards of *Cromwell v. Ward*, based on the testimony and evidence presented.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the requested relief, and the Agreement entered into between the Petitioners and the neighbors will be incorporated into their Opinion and Order.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,

_____/s_____
Tammy A. McDiarmid