

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Gary C. and Kathleen S. Loraditch – Legal Owners 16-203-SPHA

DATE: October 18, 2016

BOARD/PANEL: Andrew M. Belt, Chairman
Meryl W. Rosen
Joseph L. Evans

RECORDED BY: Tammy A. McDiarmid, Legal Secretary

PURPOSE: To deliberate the following:

Petition for Special Hearing relief to approve:

- 1) A use permit for an accessory apartment without separate utility meters or water and sewerage services under BCZR § 400.4; and
- 2) A request for confirmation that the height variance for the principal structure in Case No. 2012-0300-A is applicable to the principal structure being proposed herein; and
- 3) For such other and further relief as may be deemed necessary by the ALJ

Petition for Variance from Section(s):

- 1) BCZR § 400.3 to permit an accessory building with a height of 30' in lieu of the maximum of 15'; and
- 2) BCZR § 400.4.B.2 to permit an accessory apartment which is 1,260 square feet in lieu of the maximum of 1,200 square feet; and
- 3) For such other and further relief as may be deemed necessary by the ALJ

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board reviewed the history of this matter. This case was originally the subject of a Petition for Special Hearing relief, and a Petition for Variance. The Petition for Special Hearing was Granted by the Administrative Law Judge (“ALJ”), and the Petition for Variance was granted, with conditions. The Protestants filed an Appeal to the Board. The Petitioners filed a Motion for Reconsideration to the Petition for Variance which was Denied by the ALJ, and an appeal of the Order on the Motion for Reconsideration was noted by the Petitioners.
- The Board held a hearing during which the Petitioners withdrew their request for an accessory apartment. The Petitioners also submitted a revised proposal which reduced the size of the proposed garage to 900 sq. feet with a height of 30', and with the height of the residential structure proposed at 36'. It was noted that the Petitioners' and the Protestants worked together to reach the revised proposal.
- 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*. The Board finds that the uniqueness standard is satisfied.
- The Board also noted that when the Petitions were original filed the subject property was zoned RC5, but was rezoned to DR3.5 during the 2016 Comprehensive Zoning Map Process.
- The Board noted that any future development, or new relief requested, including any request for an in-law apartment, must go through the entire County process.

FINAL DECISION: Based on the evidence, the Board unanimously agreed to GRANT the Petition for Variance to permit an accessory building with a height of 30', with the principal residential structure having a height of 36'.

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