

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
SE side of Providence Road, 69 feet NE		
of the c/l of Ellendale Drive	*	DEPUTY ZONING
9 <sup>th</sup> Election District		
3 <sup>rd</sup> Councilmanic District	*	COMMISSIONER
(1429 A Providence Road)		
	*	FOR BALTIMORE COUNTY
<b>Ralph H. and Judy A. Weidel</b>		
<i>Petitioners</i>	*	<b>CASE NO. 2010-0179-A</b>

\* \* \* \* \*

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owners of the subject property, Ralph and Judy Weidel. Petitioners are requesting Variance relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a minimum lot width of 100 feet in lieu of the 150 feet required in the D.R.1 Zone. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the variance request were Petitioners Ralph and Judy Weidel, and J. Michael Diegel, Petitioners' builder. Also in attendance representing a nearby property owner was John B. Gontrum, Esquire. There were no Protestants or other interested persons in attendance.

Testimony and evidence offered revealed that the subject property is rectangular in size and consists of 1.25 acres, more or less, zoned D.R.1, with a small portion zoned D.R.2. The property is located on the southeast side of Providence Road, adjacent to Ellendale Drive on the northwest wide of Providence Road, on the outskirts of Towson in Baltimore County. As shown on the zoning map that was marked and accepted into evidence as Petitioners' Exhibit 2, the

subject property does not have direct frontage on Providence Road; rather, access to the property is by way of an existing macadam driveway. The property is presently unimproved.

Petitioners purchased the property in 2008. According to Mr. Gontrum, the property has been held as a separate, intact parcel since at least the 1930's, prior to the adoption of the Zoning Regulations on the property; however, the property is landlocked so as part of a resubdivision that occurred in 1992, the property owners -- the Deinlein family -- created an in-fee strip/easement in order to provide access to the subject property from Providence Road. This is delineated as Parcel "A" and shown on the resubdivision plat that was marked and accepted into evidence as Petitioners' Exhibit 3. This parcel is also owned by Petitioners. In fact, Mr. Gontrum questioned the need for a variance in this case, suggesting that a special hearing might have been more appropriate to confirm that the subject property is permitted as an undersized lot; however, in order to comply with the County's Zoning Review Office, Petitioners filed the instant request for variance relief to permit a minimum lot width of 100 feet in lieu of the required 150 feet.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Environmental Protection and Resources Management dated February 2, 2010 indicating that development of the property must comply with the Forest Conservation Regulations. Comments were received from the Bureau of Development Plans Review dated January 13, 2010 indicating that Note #6 of the site plan indicates that public sewer will be used but the plan shows septic reserve areas. Note #6 should be revised. Comments were also received from the Office of Planning dated February 3, 2010 indicating that the office does not oppose Petitioners' request for variance to permit the minimum lot size of 100 feet in lieu of the required 150 feet, provided that

architectural elevations of the proposed structure are submitted to the Office of Planning for review and approval prior to the application for building permit.

Considering all the testimony and evidence presented, I am persuaded to grant the variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. The property has been held as an intact, lot of record since before the adoption of the Zoning Regulations and has been a buildable lot since that time. More recently, in 1992, the prior owners created access to the property from Providence Road. The property also meets all other zoning requirements. I also find that Petitioners would suffer practical difficulty and undue hardship if the variance were to be denied in that Petitioners would be deprived of a beneficial use of the property otherwise permitted by the Regulations.

Finally, I find that the variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. I note that there were no Protestants at the hearing and Petitioners submitted a letter dated January 19, 2010 signed by four adjacent neighbors in support of Petitioners' plans to build a home on the subject property, which was marked and accepted into evidence as Petitioners' Exhibit 4.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered, I find that Petitioners' variance request should be granted.

THEREFORE, IT IS ORDERED this 8<sup>th</sup> day of March, 2010 by this Deputy Zoning Commissioner, that Petitioners' Variance request from Section 1B02.3.C.1 of the Baltimore

County Zoning Regulations (B.C.Z.R.) to permit a minimum lot width of 100 feet in lieu of the 150 feet required in the D.R.1 Zone be is hereby **GRANTED**, subject to the following:

1. Petitioners are advised that they may apply for any required building permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code). Please contact Environmental Impact Review at 410-887-3980 to discuss.
3. Note #6 indicates that public sewer will be used, but the site plan shows septic reserve areas; therefore Note #6 should be revised to accurately reflect whether the property has access to public water and sewer services, or whether the property will utilize a well and septic.
4. Petitioners shall submit architectural elevations of the proposed structure to the Office of Planning for review and approval prior to the application for building permit.

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

\_\_SIGNED\_\_\_\_\_  
THOMAS H. BOSTWICK  
Deputy Zoning Commissioner  
for Baltimore County

THB:pz