

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
N/S Clarendon Avenue, 185' W of		
Ivanhoe Place	*	ZONING COMMISSIONER
(108 Clarendon Avenue)	*	OF
3 rd Election District	*	
2 nd Council District	*	BALTIMORE COUNTY
Elizabeth A. Sinofsky, <i>Owner</i>	*	Case No. 2010-0049-A
Signature Homes, Inc., <i>Contract Purchaser</i>	*	
<i>Petitioners</i>	*	

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Elizabeth A. Sinofsky, and the contract purchaser, Signature Homes, Inc. The Petitioners seek relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit side yard setbacks of 8 feet and a lot width of 40 feet in lieu of the required 10 feet and 55 feet, respectively, and a lot area of 4,760 square feet in lieu of the required 6,000 square feet for a single-family dwelling. The subject property and requested relief are more particularly described on the amended site plan submitted at the hearing, which was accepted into evidence and marked as Petitioners' Exhibit 1.¹

Appearing at the requisite public hearing in support of the request were David Drutz with Signature Homes, Inc. and David Billingsley of Central Drafting & Design, Inc., the consultant who prepared the site plan and is assisting the Petitioners in the permitting process. Appearing as an interested citizen was Andrew Mogol with Mid-Atlantic Homes, owner of the adjacent

¹ The amended site plan was prepared by Central Drafting and Design, Inc. and was submitted in response to a Zoning Advisory Committee (ZAC) comment received from the Office of Planning. This new site plan evidences the elimination of a parking pad from the front yard replacing it with a longer driveway that will be located on the west side of the proposed home between 108 Clarendon Road and 110 Clarendon Road.

property, at 106 Clarendon Avenue, who is in the process of renovating the 1-½ story home that was built in 1936. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject lot of record is located on the north side of Clarendon Avenue just west of Reisterstown Road not far from the Maryland National Guard Armory in Pikesville. The lot is identified as Lot 183 on Maryland Department of Assessments and Taxation Map 78 and the Plat of Subdivision of Ralston, an older subdivision platted and recorded in the Land Records in 1897, thus prior to the zoning regulations in Baltimore County. As is often the case with older subdivisions, the lots are undersized and do not meet current area and width requirements. In this regard, the subject unimproved lot contains a gross area of 4,760 square feet (0.109 acres) and is 40' wide x 119' deep and zoned D.R.5.5. Those regulations require a minimum area of 6,000 square feet and a minimum width of 55 feet. Thus, the subject lot is undersized by today's development standards and does not meet the current width requirements.

Variance relief is requested as set forth above to allow the development of the subject property with a two-story, single-family dwelling, 24' wide x 40' deep. The proposed house will be centered on the lot 8 feet from the east and west property lines and meet front and rear yard setbacks. In this regard, Petitioners' Exhibits 3 and 5 are photographs and an aerial view map that provide graphically the pattern of development in the area. This shows that the surrounding community was built on 40-foot wide lots, which is also confirmed by the Office of Planning in its ZAC comment. There is no physical evidence that the subject property was used or consolidated with any other lot to invoke the doctrine of merger as described in *Friends of the Ridge v. Baltimore Gas & Electric Co.* 352 Md. 645 (1999) and *Remes v. Montgomery Co.* 387 Md. 52 (2005).

Testimony offered in support of the request was that without variance relief Lot 183 could not be developed. Obviously, strict compliance with the regulations would create a hardship as the zoning regulations result in a denial of a reasonable and sufficient use of the property. *See, Belvoire Farms v. North* 355 Md. 259 (1999). Moreover, based on the testimony and evidence presented, the Petitioners are entitled to their variances as they have met the requirements of Section 304 of the B.C.Z.R. (*See, Mueller v. People's Counsel for Baltimore County* 177 Md. App. 43 (2007)). In my view, the relief requested will not result in any detriment to the health, safety and general welfare of the surrounding locale and therefore would meet the spirit and intent of Section 307 for relief to be granted. The proposed dwelling will be situated on the lot consistent with other homes in this community. Building elevations will be submitted to the Office of Planning for approval prior to the issuance of a building permit.

Pursuant to the advertisement, posting of the property and public hearing on this petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 10th day of November, 2009 that the Petition for Variance seeking relief from Sections 1B02.3.C.1 and 304 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot area of 4,760 square feet, a lot width of 40 feet and side yard setbacks of 8 feet in lieu of the required 6,000 square feet, 55 feet, and 10 feet, respectively, and to approve the subject property as an undersized lot, in accordance with Petitioners' Exhibit 1, be and are hereby GRANTED, subject to the following restrictions:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the thirty (30) day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

2. The Petitioners shall submit to the Office of Planning for review and approval, prior to the issuance of any building permit, architectural elevation drawings to determine that they are compatible with the design of the dwellings in the neighborhood.

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

WJW:dlw

SIGNED
WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County