

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
SE side of Allender Road, 100 feet		
NW of Jerome Avenue	*	OFFICE OF ADMINISTRATIVE
11 th Election District		
5 th Council District	*	HEARINGS FOR
(11591-11595 Allender Road,	*	
5700-5732 Fieldcrest Drive,	*	
11505-11526 Ridgedale Drive)	*	BALTIMORE COUNTY
Allender, L.C. and NVR, Inc.	*	
<i>Petitioners</i>	*	CASE NO. 2012-0025-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for Baltimore County for consideration of a Petition for Variance filed by the legal owners of the property, Allender, L.C. and NVR, Inc. The Petitioners are requesting Variance relief from Section 1B01.2.C.1.B of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a minimum side building face to side building face setback of 15 feet in lieu of the required 20 feet for Lot Nos. 122-173, and from Section 1B01.2.C.1.B to permit a minimum distance of 20 feet from rear building face to rear property line in lieu of the required 30 feet for Lot Nos. 122-123; 126-135; 138-139; 164 and 166. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the public hearing in support of the variance request were Petitioners Edmund Levendusky, Vice President for NVR, Inc., Matt Bishop, a landscape architect, and David H. Karceski, Esquire with Venable LLP represented the Petitioners. The file reveals that the Petition was properly advertised and the site was properly posted as required by the B.C.Z.R. There were no Protestants or other interested persons in attendance.

Testimony and evidence offered revealed that the subject property is a roughly triangular portion of land (about 15 acres in size) that is part of a much larger (approximately 67 acres)

residential development approved in 2010.

The Zoning Advisory Committee (ZAC) comments were received and are made a part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief. Mr. Karceski indicated he met with Lynn Lanham and Curtis Murray of the Office of Planning, and shared with them the drawings (Petitioners' Exhibit 5A and 5B) that depict two additional styles of homes which will be offered for sale at the development. Mr. Karceski indicated that the Office of Planning reacted favorably to the proposed home models, and that will essentially constitute an amendment to the Pattern Book approved earlier by Zoning Commissioner Wiseman, as part of the development plan case. Mr. Karceski also explained that the new housing models shown in Exhibits 5A and B generated the need for the variance (setback) relief sought herein.

Considering all of the testimony and evidence presented, I am persuaded to grant the requested 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.

I further find that the granting of the relief as set forth herein can be accomplished without injury to the public health, safety, and general welfare. Therefore, in all manner and form, I find that variance relief can be granted in accordance with the requirements of Section 307 of the B.C.Z.R. as articulated in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

Mr. Bishop, who was accepted as an expert (landscape architect) testified (via proffer) that the property was unique due to its rather large size (approximately 67 acres) and the fact that a BGE easement bisects the property and in essence creates two oddly shaped parcels, best seen from the overhead photo marked as Petitioners' Exhibit 3. Photos were submitted (Exhibit 4A-C) showing the large power lines constructed on the BGE easement, and that obviously prevents that land from being used for development purposes. In addition, the site is surrounded by

