

IN RE: PETITION FOR VARIANCE
(1414 Walnut Avenue)
Palmetto Group, Inc., *Legal Owner*
Olympia Properties, Inc.,
Contract Purchaser/Lessee
Petitioners

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2013-0015-A**

* * * * *

MOTION FOR RECONSIDERATION
OPINION AND ORDER

Now pending is Petitioners’ motion for reconsideration, which was timely filed on October 25, 2012. In that motion, Petitioners indicate that subsequent to the September 27, 2012 Order¹ in the above case, the engineer (Thomas Hoff) discovered some additional information that is relevant to the “uniqueness” issue herein.

Specifically, Mr. Hoff states that in constructing a “tee turnaround” for emergency and sanitation vehicles using Walnut Avenue, Baltimore County “took” (presumably through its condemnation authority or as an exaction in the development of 1416 Walnut Avenue) 941 square feet of property which had previously belonged to Lot 7, the subject property under consideration. *See* Motion, ¶¶ 11-16. According to Mr. Hoff, this “taking” has not only rendered Lot 7 the smallest lot on Walnut Avenue, but the remaining lot is irregularly shaped, rather than rectangular or square. Motion, ¶¶ 13-14. Both of these facts/attributes can be seen on the revised plat dated October 24, 2012, bearing Mr. Hoff’s seal. In addition, and as noted by counsel, the County highway deed and construction drawings are matters of public record, and I therefore do not believe it is necessary to convene a hearing or take additional testimony on this point.

¹ In that opinion, it was stated that the RRLRAIA (Ms. Peggy Squitieri) opposed the request for variance relief. This was incorrect. As Ms. Squitieri reminded me in an e-mail dated October 14, 2012, her Association “did not take a position for or against this particular case.”

Having reviewed the September 27, 2012 Order in this case, I believe that Petitioners' arguments have merit, and I will grant the motion. With respect to variance relief under B.C.Z.R. § 307, the Order states that the subject property is not unique, but "is similar in size, shape and topography to the adjoining lots." Order, pp. 4-5. In light of the information provided in Petitioners' motion, that finding is no longer true.

Following the County "taking" for the roadway, the property consists of 6,469 square feet, making it the smallest lot in the neighborhood. Motion, ¶¶ 13-14. In addition, with the "tee turnaround" carved out of the property, the resulting configuration of Lot 7 (as shown on the Baltimore County sewer drawing) is undoubtedly unique and unlike the shape of other lots in the area. This type of uniqueness, as noted in *North vs. St. Mary's Co.*, 99 Md. App. at 512, entitles a property owner to variance relief.

THEREFORE, IT IS ORDERED, this 2nd day of November, 2012, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from §§ 304.1.B and 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") as follows:

- (1) To allow an undersized lot of 6,469 square feet in lieu of the required 20,000 square feet,
- (2) To allow a minimum lot width of 50' in lieu of the required 100',
- (3) To allow a minimum side yard of 8' in lieu of the required 15', and
- (4) To allow a minimum sum of side yard widths of 16' in lieu of the required 40', and
- (5) To allow a minimum front yard depth of 10' in lieu of the required 40', pursuant to B.C.Z.R. § 1B02.3.C.1,

be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon the following:

1. The Petitioners may apply for any appropriate permits and may 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 such time as the thirty (30) day appellate process from this Order has expired. If for whatever reason this Order is reversed, the Petitioners will be required to return and be responsible for returning said property to its original condition.
2. Compliance with the ZAC comments of DOP, dated September 5, 2012, which are attached hereto and incorporated herein.

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:dlw