

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(809 Cold Spring Road)</b>		
15 <sup>th</sup> Election District	*	OFFICE OF
6 <sup>th</sup> Councilmanic District		
Harlan K. Zinn	*	ADMINISTRATIVE HEARINGS
Petitioner	*	FOR BALTIMORE COUNTY
	*	<b>Case No. 2013-0295-SPH</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed by Harlan K. Zinn, the legal owner of the subject property. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to approve “a building permit for an undersized lot where the small lot table is not applicable”.

Appearing at the public hearing in support of the requests was Harlan K. Zinn and Allen Robertson, who served as Petitioner’s representative. Several neighbors (whose names are listed in the case file), represented by Edward C. Covahey, Jr., Esquire, appeared and opposed the relief. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP), Department of Environmental Protection and Sustainability (DEPS) and Bureau of Development Plans Review (DPR). The DOP recommended that the Petitioner’s request be denied, and DEPS indicated that the “relief requested will not be consistent with established land-use policies.” The Bureau of DPR indicated the Petitioner must comply with the County’s flood plain requirements.

The subject property is 7,345 sq. ft. in size and is zoned DR 3.5.

Petitioner argues that his lot is shown on a subdivision plat approved long before the adoption of the B.C.Z.R., and that as such, it is exempt from current lot size, setback, bulk and area regulations. Such an argument is at odds with Maryland law, and the petition will be denied.

In Baltimore County, an owner of land may pursue one of two avenues to construct a dwelling on an undersized lot. The owner could seek variance relief under B.C.Z.R. §307 or use the small lot table found at B.C.Z.R. §304. Mueller v. People's Counsel, 177 Md. App. 43 (2007). The Petitioner in this case has not sought relief under either of these regulations. Instead, the Petitioner argues that his lot is described in B.C.Z.R. §1B02.3.A.5, which means that it is exempt from current regulations. A similar argument was rejected by the Court of Special Appeals in Mardo Homes, Inc. v. Balto. Co., a copy of which is attached hereto.

As in Mardo, the Petitioner's lot may indeed be as described in §1B02.3.A.5, but it is also described by §1B02.3 subparagraphs A.3 and A.4. As such, B.C.Z.R. §1B02.3.B requires the Petitioner to satisfy the small lot table, which the Petitioner admittedly cannot do. As such, the petition must be denied.

Pursuant to the advertisement, posting of the property, and the public hearing, and after considering the arguments of the parties, I find that Petitioner's Special Hearing request should be denied.

THEREFORE, IT IS ORDERED this 20th day of August 2013, by this Administrative Law Judge, that Petitioner's request for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to approve "a building permit for an undersized lot where the small lot table is not applicable", be and is hereby DENIED.

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/sln