

IN RE: PETITION FOR VARIANCE
(6420 Dogwood Road)
2nd Election District
4th Councilman District
Andrews Expo Properties, LLC
Petitioner

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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2014-0102-A

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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Deborah C. Dopkin, Esquire, on behalf of the legal owner of the subject property. The Petitioner is requesting Variance relief from §1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a single family dwelling on a lot with a width of 50 feet in lieu of the required 55 feet. The subject property and requested relief is more fully depicted on the two-sheet site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the requests was Roberto Ho and Bernadette Moskunas. Deborah C. Dopkin, Esquire appeared as counsel and represented the Petitioner. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants or interested citizens in attendance, and the file does not contain any letters of opposition.

There were no substantive Zoning Advisory Committee (ZAC) comments received.

Testimony and evidence revealed that the subject property is approximately 7,788 square feet and is zoned DR 5.5. The property is unimproved, and Petitioner would like to construct on the site a modest single family dwelling, as shown on the plan. Exhibit 1. The Petitioner’s lot is

only 50' wide, and variance relief is therefore required. In these circumstances, I believe Petitioner is entitled to relief under B.C.Z.R. §304, a specific provision in the regulations concerning undersized single family lots. Most notably, this regulation does not require the Petitioner to establish elements of uniqueness and hardship, as required in a variance case under B.C.Z.R. §307.

Under B.C.Z.R. §304, a Petitioner is entitled to build on a lot having a deficient width. Current law requires 55' lot width, while Petitioner's lot is 50' wide. The regulations require that the Petitioner not own adjoining land that could be combined with the subject lot to satisfy the lot width requirement. The Petitioner does not own such land. The regulation also requires the Petitioner to satisfy all other height & area regulations, and Ms. Moskunas confirmed that the proposal satisfied the minimum lot area and yard setbacks contained in the small lot table. Finally, the regulation requires the lot to have been created prior to 1955. In this case, the lot was created in 1919, as shown on the plat of Broadacres, admitted as Exhibit 2.

Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This is demonstrated by the lack of County and/or community opposition. In addition, and as shown on the aerial zoning map (Exhibit 3) many of the single family dwellings in this large community are situated on 50' wide lots, and thus the proposed dwelling will be compatible with the pattern of the neighborhood.

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

THEREFORE, IT IS ORDERED, this 30th day of December, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to

Baltimore County Zoning Regulations (“B.C.Z.R”) to permit a single family dwelling on a lot with a width of 50 feet in lieu of the required 55 feet, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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