

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(11711 Bellvue Avenue)		
1 st Election District	*	OFFICE OF
3 rd Councilmanic District		
Thomas T. and Joanna K. Lawry	*	ADMINISTRATIVE HEARINGS
Petitioners	*	FOR BALTIMORE COUNTY
	*	Case No. 2014-0200-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed by Bernadette Moskunas with Site Rite Surveying, Inc. on behalf of Thomas T. and Joanna K. Lawry (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a side yard and front yard addition with side setbacks of 29 ft. and 41 ft. in lieu of the minimum required 50 ft., and a front yard setback to the centerline of the road of 52 ft. in lieu of the minimum required 75 ft. for an RC 5 zoned property that is not in a recorded subdivision.

Appearing at the public hearing in support of the requests was Thomas T. and Joanna K. Lawry and Bernadette Moskunas with Site Rite Surveying, Inc., who prepared the site plan. Joseph I. Tivvis, Jr., Esquire represented the Petitioners. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants or interested citizens in attendance at the hearing. The only substantive Zoning Advisory Committee (ZAC) comment was submitted by the Department of Planning (DOP), which indicated that the improvements were in character with the neighborhood. Also, this property is the subject of a Baltimore County Uniform Code Enforcement Correction Notice (Citation No. CO-0136548), which is being held in abeyance pending the outcome of this matter.

The subject property is comprised of two (2) parcels totaling 38,550 square feet and is zoned RC 5.

The Petitioners have six children, and required additional space for their family. They began construction of the project, but the Department of Permits, Approvals and Inspections (PAI) issued a stop work order, and directed Petitioners to secure necessary permits and zoning relief.

As noted, the property is zoned RC-5, and is not within a recorded subdivision. The regulations provides that in such circumstances an owner whose lot does not meet the minimum size requirements or setbacks “may apply for a special hearing ... to alter” the requirements. B.C.Z.R. § 1A04.3.B.1.b.1.

The regulations do not specify that a variance must be obtained, and thus I do not believe Petitioners must satisfy the requirements of B.C.Z.R. § 307. Rather, I believe the appropriate test is whether the alterations would be consistent with existing conditions in the neighborhood, and not detrimental to the health, safety or welfare of the community. The DOP, after a site visit, made such a finding, and I believe the petition for special hearing should be granted.

THEREFORE, IT IS ORDERED this 3rd day of June 2014, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R) to permit a side yard and front yard addition with side setbacks of 29 ft. and 41 ft. in lieu of the minimum required 50 ft. and a front yard setback to the centerline of the road of 52 ft. in lieu of the minimum required 75 ft. for an RC 5 zoned property that is not in a recorded subdivision, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners 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