

-IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
2 nd Election District		
2 nd Councilman District	*	OFFICE OF
(4512 Old Court Road)		
Reverend Lucy Ware	*	ADMINISTRATIVE HEARINGS
Petitioner		
	*	FOR BALTIMORE COUNTY
	*	Case No. 2014- 0064-SPH

* * * * *

OPINION AND ORDER

The above zoning petition seeks Special Hearing relief; specifically, the reduction of Residential Transitional Area (RTA) setbacks for a church. The Office of People’s Counsel, in correspondence dated October 30, 2013, notes that essentially the same relief was sought in an earlier case, 2013-0147-SPH. The special hearing relief was denied in that case, and the Board of Appeals by Order dated October 9, 2013, also denied the petition.

In its correspondence, the Office of People’s Counsel argues the newly-filed petition should be dismissed/denied on the basis of *res judicata*. I agree. In Seminary Galleria v. Dulaney Improvement Ass’n., 192 Md. App. 719 (2010), the Court of Special Appeals made clear that the doctrine of *res judicata* applies to zoning cases, and that a petitioner (as here) cannot seek the same relief (albeit with slight variations to the original plan or petition) in a subsequent case after the initial petition is denied.

Given that this determination presents a question of law, I believe it is appropriate to dismiss the case prior to an evidentiary hearing. Indeed, the applicability of *res judicata*, like the analogous double jeopardy provision in criminal cases, should be decided at the earliest possible juncture. If it is not, the protections afforded by the doctrine are lost, as noted in the correspondence from the Deputy People’s Counsel.

WHEREFORE, in light of the foregoing, IT IS ORDERED this 4th day of November, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing filed in the above-captioned matter be, and the same is, hereby DISMISSED WITH PREJUDICE on the basis of *res judicata*.

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