

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(12833 Dover Road)	*	OFFICE OF
8 th Election District	*	ADMINISTRATIVE HEARINGS
2 nd Council District	*	FOR BALTIMORE COUNTY
Sunfire Homes, LLC, <i>Legal Owner</i>	*	Case No. 2014-0010-SPHA
Petitioner	*	

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed by Neil J. Lanzi, Esquire, on behalf of Sunfire Homes, LLC, the legal owner. The Special Hearing was filed pursuant to §1A04.3.B.1. of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to allow a lot with an area of less than one and a half acres (1.282 acres) and a maximum gross density of less than .5 dwellings per acre. In addition, a Petition for Variance was filed pursuant to §1A04.3.B.2.b. to allow setbacks of 21 and 26 feet respectively, in lieu of the required 50 feet from any lot line other than a street line. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing in support of the requests were Moe Krohn, Aaron Felvelson and Bruce E. Doak from Bruce E. Doak Consulting, LLC, the firm that prepared the site plan . Neil J. Lanzi, Esquire, appeared and represented the Petitioner. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. There were no Protestants in attendance, and the file does not contain any letters of protest or opposition.

A Zoning Advisory Committee (ZAC) comment was submitted by the Department of Planning (DOP), which indicated that it had no objections to the requests.

The subject property is approximately 1.28 acres in size and is zoned RC 5. The property is part of a larger parcel that was the subject of an approved minor subdivision of 3 lots. See Exhibit 6. Single family dwellings have been constructed on two (2) of those lots, and the Petitioner now proposes to construct a single family dwelling on the subject property, the third lot in the minor subdivision. The lot is currently improved with a single family dwelling which is in a state of disrepair. The Petitioner will raze this structure prior to constructing the new dwelling. Given the change in zoning regulations that occurred following the minor subdivision approval, the Petitioner requires zoning relief to build a home on the lot.

The Petition for Special Hearing seeks approval to construct a dwelling on an “undersized” lot. Current RC 5 regulations require 1.5 acres, while the Petitioner’s lot is 1.28 acres in size. Just the same, and as noted by the DOP, most of the homes in the area are on lots smaller than 1.5 acres, so the proposed dwelling would not be incompatible with the community. As such, the petition for Special Hearing will be granted.

Based on the evidence presented, I also find that the variance can be granted in such a manner as to meet the requirements of Section 307 of the B.C.Z.R., as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995). The property is of irregular dimensions and is therefore unique.

I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship, given that Petitioner would be unable to construct a dwelling on the lot. 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 absence of opposition from the community and County reviewing agencies.

Pursuant to the advertisement, posting of the property, and public hearing, and after considering the testimony and evidence offered, I find that Petitioner's Special Hearing and Variance requests should be granted.

THEREFORE, IT IS ORDERED this 11th day of September, 2013, by this Administrative Law Judge, that Petitioner's request for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to allow a lot with an area of less than one and a half acres (1.282 acres) and a maximum gross density of less than .5 dwellings per acre, be and is hereby GRANTED.

IT IS FURTHER ORDERED that Petitioner's Variance request pursuant to § 1A04.3.B.2.b to allow setbacks of 21 and 26 feet respectively, in lieu of the required 50 feet from any lot line other than a street line, 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.
- Petitioner must prior to issuance of a building permit obtain from the DOP a finding that the Petitioner has satisfied the RC 5 zone performance standards.

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

JEB/sln

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County