

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(3549 Bay Dr.) *	OFFICE OF
15 th Election District	
6 th Council District *	ADMINISTRATIVE HEARINGS
D. Carey Development, LLC	
<i>Legal Owner</i> *	FOR BALTIMORE COUNTY
Petitioner *	Case No. 2015-0187-SPHA
* * * * *	* *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of the legal owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve an undersized lot. In addition, a Petition for Variance pursuant to B.C.Z.R.§§1A04.3.A and 1A04.3.B.2.b seeks to permit a proposed single family dwelling with side yard setbacks of 10 ft. each and a height of 37 ft. in lieu of the required 50 ft. each and maximum allowed 35 ft.

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 was Dave Carey and Scott Dallas, licensed surveyor, whose firm prepared the plan. Several area residents attended the hearing and opposed the requests.

The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were submitted by the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR). Neither agency opposed the petitions.

The subject property is approximately 0.189 acres and is zoned RC 5. The property is shown on the Revised Plat No. 3 of Bowley's Quarters as being adjacent to Lots 27A and 28A, but is not designated on that plat as a "lot". Petitioner proposes to construct a dwelling on the parcel, and seeks zoning relief to do so.

PETITION FOR SPECIAL HEARING

This is an unusual case, owing to the fact the property is part of a community platted many years ago, long before the adoption of County zoning and/or development regulations, and the legal status of the parcel is somewhat unclear. Petitioner purchased the property in 2013 from the Bowley's Quarters Improvement Association, Inc., and several of the neighbors at the hearing testified the property was historically used for community access to the bay, and was never intended to be improved with a single family dwelling. The property does have a tax account identification number, but the State is obliged to tax all non-exempt property and the tax maps and parcels shown thereon are for the convenience of the assessor. They do not answer the question of whether or not a parcel of land qualifies as a buildable "lot".

In this case, the Bowley's Quarters Plat does not identify the parcel as a "lot", and it does not have a lot number as do the hundreds of other "lots" in the community. In these circumstances granting the Petition for Special Hearing would create a lot, rather than approving an (existing) undersized lot. This would constitute an amendment of the plat, which cannot be accomplished in this proceeding.

THEREFORE, IT IS ORDERED this 21st day of April, 2015, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R") to approve an undersized lot, be and is hereby DENIED.

IT IS FURTHER ORDERED that the Petition for Variance seeking to permit a proposed single family dwelling with side yard setbacks of 10 ft. each and a height of 37 ft. in lieu of the

required 50 ft. each and maximum allowed 35 ft., be and is hereby DISMISSED without Prejudice.

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