

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(303A S. Rolling Road) *	OFFICE OF
1 st Election District	
1 st Council District *	ADMINISTRATIVE HEARINGS
Michael A. Jacobus & Cary G. Barbin,	
<i>Legal Owners</i> *	FOR BALTIMORE COUNTY
Petitioners *	Case No. 2014-0268-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 owners. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a minimum net lot area of 8,500 sq. ft. in lieu of the required 20,000 sq. ft. The variance petition seeks relief from B.C.Z.R. §1B02.3.C.1: (1) to permit a side yard setback of 15 ft. in lieu of the required 25 ft. and a side yard setback sum of 30 ft. in lieu of the required 40 ft.; and (2) to permit a minimum lot width of 50 ft. in lieu of the required 100 ft.

The subject property and requested relief is more fully depicted on the revised site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1. Appearing at the public hearing in support of the requests was Michael A. Jacobus and Cary G. Barbin. Bruce E. Doak, from Bruce E. Doak Consulting, LLC (whose firm prepared the site plan) appeared on behalf of the Petitioners. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. The next door neighbors at 301 Rolling Road attended the hearing and opposed the relief. Substantive Zoning Advisory Committee (ZAC) comments were submitted by the Department of Planning (DOP) dated July 16, 2014, which did not object to the requests.

The subject property is approximately 8,500 square feet and is zoned DR 2. The property is unimproved, and is a portion (50 ft. wide) of Lot 47 shown on the Amended Plat of Summit

Park. Exhibit 3. Petitioners noted that in 1949 a 30 ft. wide portion of Lot 47 was conveyed to the then-owner of Lot 46. Exhibit 5. The Petitioners acquired the property in 2013, and they stated that this 50 ft. wide portion of Lot 47 has its own tax account and is billed separately from Lot 48, on which the dwelling known as 303 S. Rolling Road is situated.

While it is at least arguable that the property is unique for purposes of the zoning regulations, I do not believe that variance relief can be granted in this case. Section 307 of the B.C.Z.R. expressly provides that “[n]o increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance.” In this case, the grant of variance relief would do just that: permit construction in a D.R. 2 zone of a single family dwelling on an undersized lot (8,500 sq. ft. in lieu of the required 20,000 sq. ft.). This would in fact increase the “maximum gross residential density” of 2.0 dwelling units per acre in the D.R. 2 zone. B.C.Z.R. § 1B02.2.A.

THEREFORE, IT IS ORDERED this 4th day of August, 2014, 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 permit a minimum net lot area of 8,500 sq. ft. in lieu of the required 20,000 sq. ft., be and is hereby DENIED.

IT IS FURTHER ORDERED that the Petition for Variance pursuant to B.C.Z.R. § 1B02.3.C.1: (1) to permit a side yard setback of 15 ft. in lieu of the required 25 ft. and a side yard setback sum of 30 ft. in lieu of the required 40 ft.; and (2) to permit a minimum lot width of 50 ft. in lieu of the required 100 ft., be and is hereby DENIED.

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