

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(206 Morris Avenue)</b>		
8 <sup>th</sup> Election District	*	OFFICE OF
3 <sup>rd</sup> Council District		
	*	ADMINISTRATIVE HEARINGS
C.G. Homes, Inc.	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
	*	<b>Case No. 2016-0201-SPH</b>
<b>Petitioner</b>		
	*	
	*	
	*	
	*	
	*	
	*	
	*	

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of C.G. Homes, legal owner (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve an undersized lot for construction of a single family dwelling.

Thomas Faust appeared in support of the petition. Lawrence E. Schmidt, Esq., represented Petitioner. Michael McCann, Esq., represented the Lutherville Community Association, which opposed the request. Peter Zimmerman, People’s Counsel, also participated in the case and opposed the request. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP).

The subject property is 14,189 square feet and zoned DR 2. The property is unimproved, and Petitioner proposes to construct a single-family dwelling on the undersized lot. Petitioner does not seek a variance under B.C.Z.R. §307; instead it invokes §304 concerning “undersized lots.”

As noted at the hearing, I believe Petitioner satisfies each of the “threshold” requirements set forth at B.C.Z.R. §304. That is: (1) the lot was recorded prior to 1955; (2) Petitioner complies with all bulk and area regulations other than lot width and area; and (3) Petitioner does not own

adjoining land sufficient to satisfy the lot width and area requirements. This was the finding set forth in a previous Order involving this property (Case No.: 2015-0302-SPHA), and that matter is pending at the Board of Appeals. Both Protestants' counsel and People's Counsel argued Petitioner had not satisfied these requirements, but I believe Mueller v. People's Counsel, 177 Md. App. 43 (2007) undercuts each of their arguments.

The only remaining issue is whether construction of the proposed dwelling would be "appropriate." B.C.Z.R. §304.4. Petitioner proposes to construct a 23 ft. wide dwelling. Exhibit 4. The lot is 0.325 acres, and the dwelling would be set back approximately 65 ft. from the street. In these circumstances I do not believe the proposed dwelling would be "appropriate."

Unlike the scenario in Mueller where many of the surrounding homes were situated on 50' wide lots (which is also what the petitioner in that case proposed) the evidence here is that none of the homes in the surrounding community would be as narrow as the dwelling proposed. Protestants submitted exhibits (Protestants' Exhibits 3 & 4) showing the lot size and dimensions of dwellings in the 200-block of Morris and Melancthon Avenues. The proposed dwelling would be nearly 50% narrower than neighboring homes, and would also be positioned quite close to the existing homes at 204 and 208 Morris Avenue.

THEREFORE, IT IS ORDERED this 18<sup>th</sup> day of **May, 2016** by this Administrative Law Judge, that the Petition for Special Hearing pursuant to B.C.Z.R. § 500.7 to approve an undersized lot for construction of a single family dwelling, be and is hereby DENIED.

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

Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:sln