

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(7914 Springway Road)		
9th Election District	*	OFFICE OF
2nd Council District		
	*	ADMINISTRATIVE HEARINGS
Charles Finnegan		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner		
	*	Case No. 2016-0061-SPH

* * * * *

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 Charles Finnegan, legal owner. The Special Hearing was filed pursuant to §500.6 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) and Part 125 of the Building Code to permit a proposed dwelling addition within 2 ft. 7 in. and 6 ft. 4 in. of the Riverine Flood Plain in lieu of the required 20 ft. setback.

Owner Charles Finnegan appeared in support of the request. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPR) and the Department of Public Works (DPW). The DPW indicated it was not opposed to the request, while DPR requested that certain easements be obtained from the owner, a point discussed below.

The subject property is 0.61 acres and zoned DR 3.5. The property is improved with a single family dwelling which was constructed in 1953. The Petitioner indicated his family is growing, and they may need additional living space. Though Petitioner has no immediate plans to enlarge the dwelling, the petition was filed to determine whether the County would permit the proposed improvements as shown on the site plan. (Ex. No. 1).

The Petitioner stated that he worked closely with Dave Thomas, a professional engineer who reviews floodplain matters for the DPW. Mr. Thomas has a great deal of expertise in this area, and is conservative in terms of granting waivers of the statutory requirements. I take comfort in his review and lack of opposition, and the waiver request will be granted.

The DPR noted that Roland Run (which bisects Petitioner's property) is an environmental greenway area. That agency recommended Petitioner dedicate to Baltimore County and fence certain areas surrounding this resource. But I do not believe that the Administrative Law Judge is authorized in a zoning case (as opposed to a development hearing) to insist upon dedications of property. As such, that condition will not be included in the Order below.

THEREFORE, IT IS ORDERED this 4th day of November, **2015** by this Administrative Law Judge, that the Petition for Special Hearing pursuant to the B.C.Z.R to permit a proposed dwelling addition within 2 ft. 7 in. and 6 ft. 4 in. of the riverine flood plain, in lieu of the required 20 ft. setback, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

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

JEB:sln

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County