

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(3108A River Drive Road)		
15 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
Ryan and Laura Williams	*	HEARINGS FOR
<i>Legal Owners</i>		
Barry Koluch, <i>Contract Purchaser</i>	*	BALTIMORE COUNTY
Petitioners		
	*	CASE NO. 2016-0317-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of Ryan and Laura Williams, legal owners, and Barry Koluch, contract purchaser (“Petitioners”). This is a companion to Case No. 2016-0316-A and was consolidated for hearing. Petitioners request variance relief from the Baltimore County Zoning Regulations (“B.C.Z.R.”) § 1B02.3.C.1 to permit a proposed single family-dwelling on a lot 50 ft. wide in lieu of the required 55 ft. A site plan was marked as Petitioners’ Exhibit 1.

Douglas L. Burgess, Esquire represented Petitioners. Barry Koluch and Bernadette Moskunas with Site Rite Surveying, the firm that prepared the plan, appeared in support of the Petition. No Protestants or interested citizens attended the hearing. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were submitted by the Department of Planning (DOP), the Bureau of Development Plans Review (DPR) and the Department of Environmental Protection and Sustainability (DEPS). None of the agencies opposed the request.

The subject property is approximately 8,450 sq. ft. and is zoned DR 5.5. The property is unimproved, and was created by the plat of Lynch Point, recorded on April 26, 1926. It is shown on that plat as Lot 13, block “A.” Ms. Moskunas testified there are no driveways, sheds or other

accessory buildings on the lot, and she stated the subject property was not used in conjunction with or in service of the adjoining lot (i.e., Lot 12, Block “A,” also owned by Petitioners and the subject of Case No. 2016-0316-A). In an expert report submitted by Newton Williams, Esq. (Petitioners’ Exhibit 10) the witness notes this is the only undeveloped 50 ft. wide lot on this stretch of River Drive Road, causing him to refer to it as an “orphan lot.”

In these circumstances Petitioners are entitled to relief under B.C.Z.R. § 304 pertaining to undersized lots. That regulation does not require a showing of uniqueness as is required under B.C.Z.R. § 307. Mueller v. People’s Counsel, 177 Md. App. 43 (2007). Instead, an owner may construct a dwelling on an undersized lot (i.e., lot area or lot width deficiency) if: (1) the lot was created prior to 1955; (2) all other bulk and area requirements are satisfied; and (3) owner does not own sufficient adjoining land to satisfy the regulations. In this case the only deficiency is lot width (50’ in lieu of the required 55’), and the Petitioners satisfy each of the three requirements above. As such, Petitioners will be granted relief under B.C.Z.R. § 304.

THEREFORE, IT IS ORDERED, this 9th day of **August, 2016**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (“B.C.Z.R.”) § 304 to permit a proposed single-family dwelling on a lot 50 ft. wide in lieu of the required 55 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
2. Prior to occupancy Petitioners must satisfy the Chesapeake Bay Critical Area (CBCA) and flood protection regulations.

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB/dlw