

IN THE MATTER OF:
MICHAEL C. LAM
6803 Woodrow Avenue
Baltimore, MD 21214

RE: REQUEST TO CONSTRUCT
BUILDING ON UNDERSIZED LOT

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 17-335-SPH

* * * * *

OPINION

This case comes to the Board of Appeals (“CBA”) as the result of an appeal of a decision dated August 3, 2017, issued by Administrative Law Judge John E. Beverungen granting permission for a dwelling to be constructed as a matter of right on an undersized lot at 6803 Woodrow Avenue, Baltimore, Md. 21214. The CBA held a *de novo* hearing on October 25, 2017. For the reasons stated at the Public Deliberation on that same day, and as more fully described below, we find, as did Judge Beverungen, that the construction of a dwelling on the lot in question is permitted by right.

This property was initially the subject of a petition for special hearing by which Mr. Lam sought a variance under Baltimore County Zoning Regulations (“BCZR”) §307 to construct a single family home at 6803 Woodrow Avenue. That matter was denoted as Case No. 2017-0003-A. Judge Beverungen denied that request. The matter was appealed to the CBA which declined to rule on the variance. Instead, the CBA remanded the matter to permit the Petitioner to file a request to build on an undersized lot pursuant to BCZR §304. A new petition for a special hearing was filed seeking relief under §304. As indicated above, Judge Beverungen approved the application.

The lot in question is 50 feet wide. The width requirement to build on the lot in this subdivision is 55 feet. Absent a finding that this is an undersized lot within the meaning of the BCZR, no dwelling can be built on the lot.

Section 304.1 addresses undersized lots. It provides that a single family or semi-detached dwelling can be built on a lot having an area or width less than that required by the zoning regulations if: (A) the lot had been validly recorded by deed or as part of a subdivision prior to March 30, 1955; (B) the dwelling itself comports with all existing requirements regarding height and area; and (C) the owner of the lot does not own adjoining land by which the undersized lot could be made to conform to the otherwise applicable width and area requirements. The three preconditions are listed in the conjunctive, meaning that the failure to satisfy any one of them precludes construction.

The evidence clearly establishes that all three requirements are met. First, the Petitioner presented a plat proving that the subdivision was validly approved in 1917. A separate deed showed a transfer of the property in 1946. Second, there is no request for a variance from the height or area requirements of the building. Third, neither the Petitioner nor the contract purchaser own any adjoining property. Consequently, all of the conditions in §304.1 are satisfied.

One neighbor has objected. His complaints primarily concern the adequacy of the street to accommodate the heavy equipment needed for construction of the dwelling. He also has serious health issues and is fearful that emergency vehicles will be unable to reach his home during construction. These are not issues which the CBA can address. At the same time, the CBA is more than confident that the building permitting officials will ensure that there is appropriate access to **all** of the area homes both during and after construction.

Based on the foregoing, the record establishes the authority to build a home on the lot as a matter of right.

ORDER

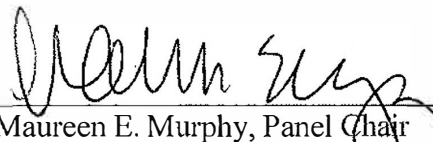
THEREFORE, IT IS THIS 16th day of November, 2017, by the Board of Appeals of Baltimore County,

ORDERED that the Petition for Special Hearing, pursuant to §304.1 of the Baltimore County Zoning Regulations, to permit a dwelling to be constructed at 6803 Woodrow Avenue is **GRANTED**; and it is further


ORDERED that the Petitioner and/or the contract purchaser may apply for necessary permits and licenses upon receipt of this Order, with the understanding that any construction activity undertaken before the expiration of the 30 day period during which an appeal from this Order can be filed or during the pendency of any appeal so filed, may result in being required to return the property to its original condition.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

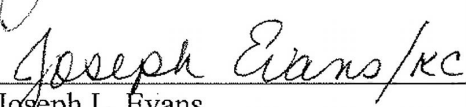
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Maureen E. Murphy, Panel Chair



Jason S. Garber



Joseph L. Evans



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

November 16, 2017

Michael C. Lam
2709 Louise Avenue
Baltimore, Maryland 21214

David Dannenman
6801 Woodrow Avenue
Baltimore, Maryland 21224

RE: In the Matter of: *Michael C. Lam*
Case No.: 17-335-SPH

Dear Mr. Lam and Mr. Dannenman:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington Hoag".

Krysundra "Sunny" Cannington
Administrator

KLC/taz
Enclosure
Duplicate Original Cover Letter

c: Isaac Gheiger/Genmar Homes
David Billingsley/Central Drafting & Design, Inc.
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Arnold Jablon, Deputy Administrative Officer, and Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law