

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
SW side of Linwood Avenue, 222 feet SE		
of Harford Road and Linwood Avenue	*	DEPUTY ZONING
14 th Election District		
6 th Councilmanic District	*	COMMISSIONER
(3005 Linwood Avenue)		
	*	FOR BALTIMORE COUNTY
William Bissell Jr.		
<i>Petitioner</i>	*	Case No. 2009-0015-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by William Bissell Jr., the legal property owner. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve an undersized lot of 50 feet in lieu of the required 55 feet. The subject property and requested relief are more fully described on the redlined site plan which was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the requested special hearing was Petitioner William Bissell Jr. and Bernadette Moskunas with Site Rite Surveying, Inc., the firm that prepared the site plan. Appearing as interested citizens were Ruth Baisden with the Greater Parkville Community Council and Chris Correale of 3000 Linwood Avenue.

Testimony and evidence offered revealed that the subject property is rectangular-shaped and contains approximately 7,500 square feet or 0.172 acre, more or less, zoned D.R.5.5. The property is located on the south side of Linwood Avenue, east of Harford Road and north of Taylor Avenue in the Parkville area of Baltimore County. The property is essentially unimproved with asphalt paving and is currently used as a parking lot -- for overflow parking of commercial businesses located nearby on Harford Road. Photographs of the subject property

were marked and accepted into evidence as Petitioner's Exhibits 6A through 6E. As shown on the record plat that was marked and accepted into evidence as Petitioner's Exhibit 2, the property consists of Lots 106 and 107 of the "Linwood" development that was recorded in June, 1923. Petitioner has owned the subject property since 1988 and at this juncture requests special hearing relief to approve an undersized lot in order to construct a single-family dwelling on the property.

As shown on the zoning map that was marked and accepted into evidence as Petitioner's Exhibit 3, the subject property is very near the commercially zoned (B.L.-C.C.C.) properties that line this area of the Harford Road corridor. Petitioner desires to complete this in-fill development by constructing a single-family dwelling. The elevations that were marked and accepted into evidence as Petitioner's Exhibit 5 show an attractive, two-story dwelling with abundant windows and distinctive rooflines.

The Zoning Advisory Committee comments were received and are made part of the record of this case. The ZAC comment received from the Office of Planning dated August 5, 2008 indicates that the proposed 17 foot by 20 foot parking pad in the front of the house should be reconfigured to function as a single car driveway consistent with other residences on the street. In response, Petitioner's consultant, Ms. Moskunas, indicated that the redlined site plan accepted into evidence at the hearing reflects the change requested by the Planning Office. Instead of a parking pad in front of the dwelling, a single car driveway is shown to run up the west side of the property, about half way along the side of the dwelling. The parking pad has also been removed.

Testifying at the hearing as an interested citizen was Chris Correale who lives on the same block across the street from the subject property. Ms. Correale is not opposed to Petitioner's plans for the property and, in fact, supports constructing a new home at the location

to take the place of the parking lot; however, she did wish to articulate a number of concerns that she has over the proposed development. These concerns are outlined in a letter dated September 15, 2008 to the Zoning Review Office, which was marked and accepted into evidence as Citizen's Exhibit 1. These include provisions for off-street parking, no reductions in the "no parking" zones that currently exist in the area, having the owner or developer take necessary steps to lessen the impact of construction, and properly maintaining the property during the transition from the use as a parking lot to construction of a dwelling. Ms. Correale also requested that the owner not be able to rent rooms or apartments in the home or any outbuilding. The undersigned explained to Ms. Correale that her concerns, though well-founded, were more under the province of the Code Inspections and Enforcement Division of the Department of Permits and Development Management, as well as Traffic Engineering. The undersigned also advised Ms. Correale to maintain communication with those County agencies in order ensure that the subject property is in compliance with County Codes and Regulations as the development moves forward.

In addition, testimony was provided by Ruth Baisden with the Greater Parkville Community Council (GPCC). Ms. Baisden explained that her organization is an umbrella organization that represents communities in the Parkville, Carney, and Cub Hill areas. GPCC has been very active over the years in assisting the community in the development process and providing input during this process to developers and County agency representatives. She explained that most of the development that occurs in her area consists of what has been termed "in-fill" development, where a particular area or neighborhood has pockets of undeveloped property, often shown as platted, established lots of record. These lots have gone undeveloped for years or sometimes decades. Although in-fill development is often preferred by the County

due to a property's ready access to County services (i.e. – water and sewer services) and the lessened impact on existing communities, Ms. Baisden's organization generally is not supportive of this type of development because in her view it ignores the ongoing challenges these established communities face due to a lack of open space. In this case, however, Ms. Baisden indicated that GPCC is supportive of the development, mainly because it prefers the use of this property for residential purposes, consistent with the property's zoning classification, rather than as a parking lot. Ms. Baisden also expressed several concerns about the project; namely that the elevations accepted into evidence as Petitioner's Exhibit 5 be maintained, that on-street parking restrictions be continued, and that construction impacts and debris be controlled by the developer and contractor.

Based on the testimony and evidence presented, I am persuaded to grant the special hearing relief and approve an undersized lot of 50 feet in lieu of the required 55 feet pursuant to Section 1B02.3.C.1 of the B.C.Z.R. Petitioner meets all other height, area, and setback requirements required by the small lot table and in my judgment, Petitioner's plans are appropriate and will not be detrimental to the health, safety, or general welfare of the surrounding locale. I also believe that Petitioner's plans are within the spirit and intent of the zoning regulations. In fact, in my view, the change in the use of the property from a parking lot for nearby businesses to a residence that would be part of the Linwood neighborhood will be more consistent with the property's D.R. zoning classification.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the parties, I find that Petitioner's request for special hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 7th day of October, 2008 that Petitioner's request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve an undersized lot of 50 feet in lieu of the required 55 feet be and is hereby GRANTED, subject to the following restrictions which are conditions precedent to the relief granted herein:

1. Petitioner may apply for permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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

SIGNED
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz