

**IN RE: PETITIONS FOR SPECIAL HEARING *
AND VARIANCE**
S side of Paladia Way, 1250 feet S *
of the c/l of Old Court Road *
3rd Election District *
2nd Councilmanic District *
(12 Paladia Way) *

Albert and Ilisa Nigrin *
Legal Owners

BEFORE THE
OFFICE OF
ADMINISTRATIVE HEARINGS
FOR BALTIMORE COUNTY

CASE NO. 2011-0248-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for consideration of Petitions for Special Hearing and Variance filed by the legal property owners, Albert and Ilisa Nigrin. The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to allow a proposed accessory structure (tennis court) on a lot (Lot 5) that is not improved with a principal building, and to amend the Final Development Plan for Lot 5 of the Shapiro Property. In the alternative, Petitioners are requesting Variance relief from Section 400.1 of the B.C.Z.R. to permit an accessory structure (a proposed tennis court) in the side and front yards in lieu of the required rear yard location, and to amend the Final Development Plan for Lots 5 and 6 of the Shapiro Property. The subject property and requested relief are more fully described on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the requisite public hearing in support of the Special Hearing and Variance requests was Albert Nigrin, property owner, and Herbert Burgunder, III, Esquire, attorney for Petitioner. There were no Protestants or other interested persons at the hearing.

Testimony and evidence offered at the hearing demonstrated that the property which is the subject of this Special Hearing and Variance request is an unimproved lot of ground known as Lot 5 located within the subdivision known as the Shapiro Property. The owners of the property,

Albert and Ilisa Nigrin, own this lot as well as the adjacent lot containing a single family residence wherein they reside. The Applicants purchased this unimproved lot along with their residence to allow them the flexibility to construct a home on the lot sometime in the future. However, at this time they wish to utilize this land for the purpose of constructing a 60 x 120 feet tennis court. The location of the tennis court is shown on Petitioners' Exhibit 1, the site plan submitted into evidence.

A quick review of the site plan submitted demonstrates that the lot whereupon the Nigrins' residence is located is burdened by a forest conservation easement providing to the Nigrins little area for accessory amenities to their residence. Due to this restriction on the lot where their house is located, that the only alternative the Nigrins have for the location of this tennis court is to place it on the unimproved lot which they also own.

The Applicants filed for this approval in alternative form. That is, they filed a Special Hearing to allow this accessory structure (tennis court) to be located on an unimproved lot with no principal dwelling. In the alternative, the Petitioners requested Variance relief to allow the tennis court to be located in the front and side yards in lieu of the required rear yard. The alternative relief was filed in the event that this Office would consider the Nigrins' properties to be one lot. However, I find the better manner in which to proceed would be to approve the Special Hearing request and dismiss the Variance request as being unnecessary.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse comments received from any of the County reviewing agencies.

Based upon the testimony and evidenced presented at the hearing and the lack of opposition thereto, I find that the Special Hearing relief shall be granted and the request for Variance dismissed as being unnecessary.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and after considering the testimony and evidence offered by the parties, I find that Petitioners' request for Special Hearing should be granted and the Variance should be dismissed.

THEREFORE, IT IS ORDERED this 6th day of April, 2011, by the Administrative Law Judge, that Petitioners' request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow a proposed accessory structure (tennis court) on a lot (Lot 5) that is not improved with a principal building, and to amend the Final Development Plan for Lot 5 of the Shapiro Property, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Variance request relief from Section 400.1 of the B.C.Z.R. to permit an accessory structure (a proposed tennis court) in the side and front yards in lieu of the required rear yard location, and to amend the Final Development Plan for Lots 5 and 6 of the Shapiro Property, be and is hereby DISMISSED AS BEING UNNECESSARY.

The relief granted is subject to the following condition:

1. Petitioners may apply for their building permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

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

Signed _____
TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/pz