

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
E side of Hollow Road, 52' NE of c/l of	*	OFFICE OF
Glen Avenue		
1 st Election District	*	ADMINISTRATIVE HEARINGS
1 st Councilmanic District		
(724 Hollow Road)	*	FOR BALTIMORE COUNTY
Phillip Martin Enterprise, Inc., <i>Legal Owner</i>	*	
Robert Knudsen, <i>Contract Purchaser</i>		
Petitioners	*	CASE NO. 2011-0314-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for consideration of Petitions for Special Hearing and Variance filed by Donna M.B. King, Esquire on behalf of the legal property owner, Gary Phillip Frey of Phillip Martin Enterprise, Inc. and contract purchaser, Robert Knudsen. The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit the construction of a home on an undersized lot of 7,928 feet in lieu of minimum required lot of 10,000 square feet. The Variance, pursuant to Section 1B02.3.C of the B.C.Z.R., is to permit a proposed single family dwelling on a lot width of 53 feet in lieu of the minimum permitted 70 feet. 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 were Gary Phillip Frey, legal owner of Phillip Martin Enterprises, Inc., and Robert Knudsen, contract purchaser. Donna M.B. King, Esquire appeared as counsel for the Petitioners. There were no Protestants or other interested persons present at the hearing.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments received from the Office of Planning, received May 19, 2011, recommended denial and a summary of recommendations as follows:

“The subject lot (724 Hollow Road) is undersized with respect to both lot size and lot width. The property owner also owns the adjoining undeveloped lot identified as 728 Hollow Road on the petitioner's plat. That lot is undersized with respect to lot width. Both lots are located in the Oella National Register Historic District, an area with many distinctive older homes. Both lots have steep slopes.

The Office of Planning recommends the petitioner’s request be **denied**. The subject lot and the adjoining lot owned by the petitioner should be combined into a single building lot for the following reasons:

The request doesn't comply with Section 304.1.C of the BCZR because the lot owner owns sufficient adjoining land to conform to the width and area requirements. Hollow Road is a dangerous, substandard road. It is a very narrow road (14 to 15 feet wide) at this location and 728 Hollow Road is located on a blind curve.

There is a sharp rise in the elevation of the land encompassed by the subject lot adjacent to Hollow Road. Currently there is an attractive 2½-foot high stone retaining wall along the road frontage of the property. The petitioner's plat shows the location of the stone retaining wall, but it doesn't show any off-street parking spaces. If the retaining wall remains, it won't be possible to provide off-street parking spaces to serve the proposed dwelling.

In light of the steep topography and the poor road access, one dwelling on two combined lots would be a reasonable use of the petitioner's properties.

New dwellings on undersized lots must be appropriate in the context of the neighborhood in which they are to be located (see Section 304.2.B.1 of the BCZR). The footprint of the proposed dwelling is much larger than the footprints of the existing dwellings shown on the petitioner's plat. It is questionable whether the proposed dwelling will be appropriate with respect to building size.

Notwithstanding the aforementioned, should the Administrative Law Judge grant the petitioner’s requests, the application for a building permits should be required to comply with Section 304 of the BCZR (Use of Undersized Single-Family Lots). The building permit applicant should demonstrate that the size and architectural design of the new dwelling would be appropriate in the context of the surrounding neighborhood. Also, given the present topographic condition of the subject lot, the building permit applicant should submit a grading plan showing existing and proposed contours of the lot and the location and details of any retaining walls and the required off-street parking spaces”.

There were no other ZAC comments received from any of the County reviewing agencies.

Testimony and evidence indicated that the property which is the subject of this special hearing and variance request consists of 0.184 acres, more or less, and is split zoned DR 3.5 and DR 2. The property is located on the southeast side of Hollow Road near its intersection with Glen Avenue in the Oella area of Baltimore County. The subject lot is vacant at this time; however, there did exist at one point in time a single family dwelling on this property. The owner of the property is interested in selling the lot to Mr. Robert Knudsen for the purpose of constructing a home thereon. In order to proceed with the construction of a home, the special hearing request is necessary as well as the variance relief.

While there was no persons present at the hearing opposing the request, as previously mentioned there was strong opposition from the Office of Planning for Baltimore County by way of a written comment dated May 18, 2011. I indicated at the hearing to those in attendance that I would discuss this recommendation of denial from the Planning Office with Curtis Murray, the author of that comment. A subsequent meeting was held with Mr. Murray, who was steadfast in his position and strongly recommends that the special hearing and variance relief be denied. The Office of Planning is concerned with what they believe to be a dangerous intersection at Hollow Road and Glen Avenue, the very steep topography of the lot in question, and the fact that the owner of this lot also owns adjacent property which, if developed together, could provide a much safer and acceptable building lot.

Based on the strong opposition presented by the Planning Office by way of their comment, I find that the Petitioner's request for special hearing should be denied. In addition, the Petitioner's request for variance should also be denied.

THEREFORE, IT IS ORDERED this 20 day of July, 2011, by this 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 permit the construction of a home on an undersized lot of 7,928 feet in lieu of minimum required lot of 10,000 square feet, be and is hereby DENIED; and

IT IS FURTHER ORDERED that the Variance request pursuant to Section 1B02.3.C of the B.C.Z.R., is to permit a proposed single family dwelling on a lot width of 53 feet in lieu of the minimum permitted 70 feet, be and is hereby DENIED.

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



TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/pz