

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
S of Clifton Avenue, 340' W of c/l of	*	OFFICE OF
Oak Drive		
1 st Election District	*	ADMINISTRATIVE HEARINGS
4 th Councilmanic District		
(Clifton Avenue)	*	FOR BALTIMORE COUNTY
Jacob H. France, Jr., <i>Legal Owner</i>	*	
Morgan C. Kelly, <i>Contract Purchaser</i>		
Petitioners	*	CASE NO. 2011-0315-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 owner, Jacob H. France, Jr., and contract purchaser, Morgan C. Kelly. The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve an undersized lot and that approval of such lot will not adversely effect the overall density of the neighborhood. The Variance, pursuant to Section 1B02.3.C.1 of the B.C.Z.R., is to permit side setbacks of 9 feet in lieu of the required 10 feet, and a lot width of 40 feet in lieu of the required 55 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 Morgan C. Kelly, contract purchaser, and his son, Morgan Kelly II. 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. There were no adverse 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 4,002 square feet and is zoned DR 5.5. The property is unimproved at this time. This neighborhood was originally designed with 20 feet wide lots, and the Petitioner owns two of them for a total lot width of 40 feet. There is no land available on either side of this property as there are houses currently existing on those lots.

I find that the special hearing relief should be granted as the approval of this request will not adversely impact overall density of the neighborhood.

As to the variance relief, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioners.

I further find that the variance can be granted in strict harmony with the spirit and intent of said regulations, and in such a manner as to grant relief without injury to the public health, safety, and general welfare. Thus, I find that the variance can be granted in such a manner as to meet the requirements of Section 307 of the B.C.Z.R, as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

THEREFORE, IT IS ORDERED this 3 day of June, 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 approve an undersized lot and that approval of such lot will not adversely effect the overall density of the neighborhood, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Variance request pursuant to Section 1B02.3.C.1 of the B.C.Z.R., is to permit side setbacks of 9 feet in lieu of the required 10 feet, and a lot width of 40 feet in lieu of the required 55 feet. be and is hereby GRANTED.

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