

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
E side of Engleberth Road, 450' SW of		
the c/line of Cross Road	*	OFFICE OF ADMINISTRATIVE
(1127 Engleberth Road)		
15 th Election District	*	HEARINGS FOR
6 th Council District		
	*	BALTIMORE COUNTY
Andrew R. Marani		
Petitioner	*	CASE NO. 2012-0179-SPH

* * * * *

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings (OAH) as Petitions for Special Hearing and Variance filed by the legal owner of the property, Andrew R. Marani. The Petitioner is requesting Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to determine whether or not the Administrative Law Judge should approve, pursuant to B.C.Z.R. Section 1A04.3.B.2b, a proposed single family dwelling on a lot zoned RC-5 containing 16,281 square feet in lieu of the required 1.5 acre.

The Petitioner seeks the following variance relief under B.C.Z.R. Section 307:

- (1) To permit a principal building setback of 45 feet to the centerline of a road that leads to a collector road in lieu of the required 100 feet setback, and
- (2) To permit side yard setbacks of 10 feet and 31.5 feet in lieu of the required 50 feet.

The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the public hearing held for this case was Petitioner Andrew R. Marani and his wife, Martha. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. There were no Protestants or other interested persons in attendance, and the file does not contain any letters of

opposition or protest. Indeed, Petitioner's immediate neighbors both submitted letters expressing their support for the project. *See* Exhibit 5.

The Zoning Advisory Committee (ZAC) comments were received and made a part of the file. A comment was received from the Department of Planning, dated February 23, 2012, indicating Petitioner must provide to that office certain documents and materials which will facilitate the review by that office mandated by B.C.Z.R. Section 1A04.4. These issues will be addressed when Petitioner makes application for a building permit, and the undersigned advised Mr. and Mrs. Marani that they would be required to provide these materials to the Department of Planning. The Petitioner indicated he has retained an architect, and in a January 26, 2012 comment, the Department of Planning noted the architect meets RC 5 performance standards. While it is not entirely clear what is meant by that notation, I am satisfied the Petitioner intends to construct a handsome and professionally designed dwelling on the site, and I am confident Petitioner will provide the Department of Planning with all materials and assistance needed for its review.

A comment was also received from the Department of Environmental Protection and Sustainability (DEPS), dated March 2, 2012, indicating the Petitioner must comply with certain Chesapeake Bay Critical Area (CBCA) regulations, given the property is located in a CBCA Limited Development Area. There were no other ZAC comments received from any of the County reviewing agencies.

Testimony and evidence revealed that the subject property is 16,281 square feet and is zoned RC 5. The Petitioner acquired the property from his parents, and razed an existing house on the site in or about 2001, since it had become dilapidated. *See* Exhibits 2 and 3. The Petitioner testified that most homes in the area are on lots sized similarly to his, and I therefore believe

special hearing relief is appropriate in this scenario.

Based on the evidence presented, 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). 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 Petitioner.

Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED, this 7th day of March, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit, pursuant to B.C.Z.R. Section 1A04.3.B.2b, the construction of a proposed single family dwelling on a lot zoned RC 5 containing 16,281 square feet in lieu of the required 1.5 acre, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance relief:

- (1) To permit a principal building setback of 45 feet to the centerline of a road that leads to a collector road in lieu of the required 100 feet setback, and
- (2) To permit side yard setbacks of 10 feet and 31.5 feet in lieu of the required 50 feet,

be and is hereby GRANTED.

The relief granted herein shall be conditioned upon the following:

1. The Petitioner may apply for his building permit and may be granted same upon receipt of this Order, however the Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the thirty (30) day appellate process from this Order has expired. If for whatever reason, this Order is reversed, the Petitioner will be required to return and be responsible for returning said property to its original condition.
2. The Petitioner must comply with the ZAC comments received from the Department of Planning, dated February 23, 2012, and the Department of Environmental Protection and Sustainability (DEPS), dated March 2, 2012.

JEB:dlw

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County