

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(1628 Cape May Road)		
15 th Election District	*	OF ADMINISTRATIVE
6 th Councilman District		
The Estate of Mildred J. Mizell,	*	HEARINGS FOR
<i>Legal Owner</i>		
Mark A. Fuchsluger,	*	BALTIMORE COUNTY
<i>Contract Purchaser/Lessee</i>		
Petitioners	*	CASE NO. 2013-0145-A

* * * * *

MOTION FOR RECONSIDERATION

This matter arises out of a Motion for Reconsideration of my Opinion and Order dated February 27, 2013.

In that Order, I denied a Variance under Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit construction of a detached one-family home on a lot 53 ft. lieu of the required 70 ft.; in addition to Variance relief requested to reduce side setbacks and a reduced sum of side setbacks.

The Motion to Reconsider bases its request on the requirements on Section 304 of the B.C.Z.R., to grant the Petitioner relief to permit a lot width of 53 ft. lieu of the required 70 ft. On that basis, the Motion deletes the additional Variance request as to setbacks and the sum of setbacks.

This Motion was heard on April 3, 2013. The testimony of the Petitioner/Contract Purchaser, Mr. Fuchsluger, was proffered by counsel. It was presented that the subject property satisfies the conditions set out in B.C.Z.R. Section 304.1. To that end, documentation was presented that the subject site was part of a validly approved subdivision prior to March 30, 1955. Further, it was established that the property (of some 15,582 square feet) has sufficient area to meet the requirements of a single-family dwelling in this DR 3.5 zone. In addition, it was noted

that the Petitioner/Contract Purchaser is not seeking any Variances as to height or area regulations; nor does he own sufficient adjoining land to meet the otherwise existing width requirements. The two adjoining lots are already improved, subject site has never been improved, and there is no intent therefore to utilize this site in support of another.

The Petitioner/Contract Purchaser, under oath, adopted as his own the above testimony proffered by his counsel. It should be noted that the original petitioner in this matter had been the sellers of the subject site. The Motion to Reconsider based upon Section 304.1 herein is moved by Mr. Fuchsluger, the contract purchaser.

Finally, it was presented that the Petitioner/Contract Purchaser has constructed other residences in this neighborhood and that the proposed structure in this matter will be consistent with the uses and character of the immediate neighborhood.

I am satisfied that the Petitioner/Contract Purchaser has clearly established the requirements set forth in Section 304.1 of the B.C.Z.R.

THEREFORE, it is this 19th day of April, 2013, that the Motion for Reconsideration under B.C.Z.R. 304.1 to permit construction of a detached one-family home on a lot 53 ft. in lieu of the required 70 ft., is hereby GRANTED.

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

Signed
LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:dlw