

**IN RE: PETITION FOR SPECIAL HEARING** \* **BEFORE THE**  
**(608 Stoney Lane)** \* **OFFICE OF ADMINISTRATIVE**  
1<sup>st</sup> Election District \*  
1<sup>st</sup> Councilmanic District  
Cascarsan, LLC \* **HEARINGS FOR**  
Petitioner \* **BALTIMORE COUNTY**  
\* **CASE NO. 2013-0173-SPH**

## **ORDER AND OPINION**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Special Hearing filed by Jerry Naylor, Managing Member on behalf of Cascarsan, LLC, legal owner. The Petitioner is requesting Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve an undersize lot for construction of a single family dwelling. 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 Jerry Naylor, Managing Member of Cascarsan LLC, Timothy Battaglia, and Rick Richardson, from Richardson Engineering, LLC, the firm that prepared the site plan. Several area residents attended the hearing and expressed concern regarding the potential for flooding due to a nearby stream. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

The Zoning Advisory Committee (ZAC) comments were received and made a part of the file. The only substantive comment was from the Department of Planning (DOP), which recommended approval of the petition. Exhibit 2.

Testimony and evidence revealed that the subject property is approximately 0.25 acres and is zoned DR 5.5. The lot was created pursuant to a deed recorded in 1936, and has remained vacant since that time. The Petitioner proposes to construct a single family dwelling on site, but to do so requires zoning relief.

Under Section 304 of the B.C.Z.R., a single family dwelling may be erected on a lot of insufficient width (here, the B.C.Z.R. requires a 55' lot width, and the Petitioner's lot is 50' wide) if: (1) the lot was recorded by deed prior to 1955; (2) all other height and area regulations are satisfied; and (3) the owner does not own sufficient adjoining property to satisfy the width requirements. The Petitioner satisfies these requirements, and the special hearing relief will therefore be granted.

As noted earlier, several neighbors raised concerns regarding the potential for flooding in the area, due to a nearby stream as shown on the plan. The Department of Environmental Protection and Sustainability (DEPS), as discussed at the hearing, has already commented on the proximity of the stream, and has indicated Petitioner may be required to establish a forest buffer easement on site prior to building permit issuance. As such, those issues will be addressed by that agency when Petitioner makes application for a building permit.

Pursuant to the advertisement, posting of the property, and public hearing, and after considering the testimony and evidence offered, I find that Petitioner's Special Hearing request should be granted.

THEREFORE, IT IS ORDERED, this 27<sup>th</sup> day of March, 2013 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 approve an undersize lot (with a lot width of 50' in lieu of 55' as required in the DR 5.5 zone) for construction of a single family dwelling, be

and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioner must comply with the ZAC comments of the DEPS, as set forth in the memorandum dated March 12, 2013.

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

Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:dlw