

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(7321 Greenbank Road)		
15 th Election District	*	OFFICE OF ADMINISTRATIVE
6 th Councilmanic District		
Michael W. Hall	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	CASE NO. 2013-0187-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Special Hearing filed by Michael W. Hall, legal owner. The Petitioner is requesting Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), for two (2) non-conforming residences on a single lot, and to approve existing setbacks for both structures in lieu of the required setbacks for DR 5.5. 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 Michael W. Hall, Norman I. Sines, Sr., Karen T. Mullins and Patrick C. Richardson, Jr. with Richardson Engineering, LLC, the consulting firm that prepared the site plan. Alfred L. Brennan, Jr., Esquire with Brennan & Brennan appeared as counsel and represented the Petitioner. 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 Department of Environmental Protection and Sustainability (DEPS) indicated that the proposal was in compliance with the Chesapeake Bay Critical Area (CBCA) regulations, and the

Department of Planning (DOP) expressed concern with the lack of adequate parking for the two (2) dwellings.

Testimony and evidence revealed that the subject property is approximately .25 acres and is zoned DR 5.5. The Petitioner purchased the property in 2012, and resides in the larger dwelling on the site. Petitioner indicated the smaller dwelling will be occupied by a family member who has a severely disabled child. During the course of completing certain improvements to the property, Baltimore County informed Petitioner it had no record of the two (2) dwellings on site and insisted he seek special hearing relief.

The Petitioner presented evidence that the larger house on site was constructed in 1944, while the smaller dwelling was completed in 1932. Petitioner's Exhibit 3. As such, both structures were in existence long before the adoption of the B.C.Z.R., and they therefore qualify as lawful non-conforming uses and structures under the B.C.Z.R. Section 104.

The Petitioner presented the testimony of Norman Sines, who has lived in the area since 1956. Mr. Sines testified his recollection is that through the years these two (2) dwellings have always been in use as residences. Mr. Richardson testified that (contrary to the DOP's comment) two (2) parking spaces currently exist at the property, shown on the site plan he prepared as "existing drive". See Petitioner's Exhibit 1. While current regulations would require four (4) spaces for the two (2) dwellings, the houses were constructed before such parking requirements existed, and thus B.C.Z.R. Section 104 exempts Petitioner from this requirement. As a practical matter, both Mr. Sines and Mr. Richardson testified that cars are routinely parked along Patapsco Road, which they described as a very lightly traveled neighborhood road. See Petitioner's Exhibit 2. In addition, the street is not posted with "No Parking" signs, and there is no indication that parking along this road would be illegal and/or unsafe. Finally, the Petitioner presented letters

from several neighbors in the immediate vicinity (Petitioner's Exhibit 5), all of which express support for the petition.

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 22nd day of April, 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.), for two (2) non-conforming residences on a single lot, and to approve existing setbacks for both structures in lieu of the required setbacks for DR 5.5., be and is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

- 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 his 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.

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