

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(1335A Lafayette Avenue)	*	OFFICE OF
1 st Election District		
1 st Councilmanic District	*	ADMINISTRATIVE HEARINGS
Kevin R. Yang		
Petitioner	*	FOR BALTIMORE COUNTY
	*	Case No. 2013-0237-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed by Kevin R. Yang, the legal owner of the subject property. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to approve an undersized lot with a width of 40 ft. in lieu of the required 55 ft. and a lot area of 5,000 sq. ft. in lieu of the required 6,000 sq. ft. The Variance petition seeks relief from B.C.Z.R. § 1B02.3.C.1 to permit side yard setbacks of 6 ft. in lieu of the required 10 ft. 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 in support of the requests was Kevin R. Yang and Rick Richardson, from Richardson Engineering, LLC, the firm that prepared the site plan. Several citizens from the community attended the hearing and objected to the relief, primarily the approval of an undersized building lot. Neil Lanzi, Esquire, attended the hearing 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 only substantive Zoning Advisory Committee (ZAC) comment received was from the Department of Planning (DOP) dated May 2, 2013, indicating the Petitioner must submit

building elevations to the DOP for approval prior to the issuance of any building permits and that landscaping must be provided along the public road.

The subject property is 5,000 sq. ft. in size and is zoned DR 5.5. This property is unimproved, and was purchased by Petitioner in 2012. The Petitioner seeks zoning relief, in order to construct a single family dwelling on this undersized lot.

The hearing in this case lasted for nearly two hours and during that time several neighbors spoke in opposition to the Petition. The neighbors believed that the lot was too small to develop, and that the neighborhood's existing infrastructure was deficient. They testified that approving an undersized lot would only exacerbate the problem. The Petitioner stated he bought the property as an investor to construct a new dwelling, and Mr. Richardson presented an exhibit (Petitioner's Exhibit 5) showing that at least 15 other owners in the area have been granted similar relief to construct a single family dwelling on an undersized lot.

After reviewing the testimony and numerous exhibits, I believe that the lot (40' wide x 125' deep) is too small to accommodate a single family dwelling. As shown on the site plan, the proposed house would be located just 12 ½ ft. from the existing dwelling at 1337 Lafayette Avenue. In addition, if a dwelling was constructed, this would be the only "block" (which consists of (12) twelve 20' wide lots) along Lafayette Avenue containing five single family dwellings. See Petitioner's Exhibit 5.

In terms of the applicable law, I do not believe the subject property is unique, as that term is used in Cromwell and similar cases. In Cromwell, the court held that the property under consideration must be unique (i.e., size, shape, topography) and unlike neighboring property, to qualify for variance relief. Here lots 55 and 56 are virtually identical to the hundreds of other lots shown on the Catonsville Manor Plat (Petitioner's Exhibit 3), which was filed in 1917.

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

THEREFORE, IT IS ORDERED this 19th day of July 2013, by this Administrative Law Judge, that Petitioner's request for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to approve an undersized lot with a width of 40 ft. in lieu of the required 55 ft. and a lot area of 5,000 sq. ft. in lieu of the required 6,000 sq. ft., be and is hereby DENIED.

IT IS FURTHER ORDERED that Petitioner's request for Variance pursuant to § 1B02.3.C.1 to permit side yard setbacks of 6 ft. in lieu of the required 10 ft., be and is hereby DENIED.

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/sln