

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
<b>(3903 Glenhurst Road)</b>		
15th Election District	*	OFFICE OF ADMINISTRATIVE
7th Council District		
Estate of Evelyn Elliott	*	HEARINGS OF
(Legal Owner)		
Kim Carroll	*	BALTIMORE COUNTY
(Contract Purchaser)		
	*	<b>CASE NO. 2021-0023-A</b>

<b>IN RE: PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(Glenhurst Road)	*	OFFICE OF
15 <sup>th</sup> Election District		
7th Council District	*	ADMINISTRATIVE HEARINGS
Glenhurst Road		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Mason Properties, Inc.	*	<b>Case No. 2021-0024-SPHA</b>
<i>Contract Purchaser</i>		
	*	
<b>Petitioners</b>		

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by Charles Elliott (“Petitioner”) and Kim Carroll (“Contract Purchaser”) for property located at 3903 Glenhurst Road. The Petitioners are requesting variance relief from Baltimore County Zoning Regulations (“BCZR”) § 1B02.3.C.1 to approve a 9 ft. and 6 ft. existing side yard setback in lieu of the required 10 ft. side yard setback; and to approve a lot width of 50 ft. in lieu of the required 55 ft. (Lot 21 A).

Also this matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Variance filed on behalf of Evelyn Elliott, Legal Owner (“Petitioner”) and Mason Properties, Inc. (Contract Purchaser). The Special Hearing was filed pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 500.7 to determine

whether or not the Zoning Commissioner should approve a special hearing to confirm that a lot merger has not occurred with the adjacent parcel at 3903 Glenhurst Road (Lot 21 A).

A Variance was filed BCZR § 1B02.3.C.1 to approve a lot width of 50 ft. in lieu of the required 55 ft. (Lot 22 A, Plat Book 12/Folio 22)

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted.

Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and Department of Department of Environmental Protection (“DEPS”).

Kim Carroll, Contract Purchaser appeared at the hearing on behalf of Mason Properties. Ben Gary, from John Mellema Surveyors also appeared and assisted at the hearing. There were no opposing parties or interested citizens. The subject properties are adjacent Lots 21A and Lot 22A, which are each approximately 6,173 sq. ft. and are zoned DR 5.5. Mr. Gary explained that the properties are located within the Chesapeake Bay Critical Area (“CBCA”) and flood plain. Lot 21A has an existing dwelling on it. Lot 22A has an aluminum storage shed on it but is otherwise vacant. The un rebutted testimony was that Lot 22A has always been vacant and has only been used for occasional recreational purposes by the owners of the dwelling on lot 21A. The parcels have always had separate tax accounts. I therefore find that no merger has occurred between the lots. *See, e.g., Mueller v. People’s Counsel for Baltimore County*, 177 Md. App. 43, 93-102 (2007).

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

*Cromwell v. Ward*, 102 Md. App. 691 (1995).

The site is unique for a variety of reasons, including that it is adjacent to a large unimproved lot that appears to contain wetlands. The subject parcels are also within the Chesapeake Bay Critical Area and within a Limited Development Area, which imposes impervious lot coverage restrictions. The parcels are each only 50 feet wide since they were laid out as part of a subdivision that was created before the adoption of the BCZR. If the variances are not granted the petitioner will suffer practical difficulty and hardship because it would be unable to construct the proposed dwelling on Lot 22A. I further find that the relief requested is within the spirit and intent of the BCZR and that it will not harm the public health, safety or welfare.

THEREFORE, IT IS ORDERED, this 7th day of **April 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR § 1B02.3.C.1 to approve a 9 ft. and 6 ft. existing side yard setback in lieu of the required 10 ft. side yard setback; and to approve a lot width of 50 ft. in lieu of the required 55 ft. (Lot 21 A) is hereby GRANTED.

IT IS FURTHER ORDERED THAT, Petitions for Special Hearing and Variance filed on behalf of Evelyn Elliott, Legal Owner (“Petitioner”) and Mason Properties, Inc. (Contract Purchaser), pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 500.7 to confirm that a lot merger has not occurred with between Lot 22A and the adjacent parcel at 3903 Glenhurst Road (Lot 21 A) is hereby GRANTED.

IT IS FURTHER ORDERED THAT a variance to approve a lot width of 50 ft. in lieu of the required 55 ft. (Lot 22 A) is hereby GRANTED

The relief granted herein shall be subject to the following:

- Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would

be required to return the subject property to its original condition.

- Petitioners shall comply with the comments of DEPS, which are attached hereto and made a part hereof.

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

Signed \_\_\_\_\_  
PAUL M. MAYHEW  
Managing Administrative Law Judge  
for Baltimore County

PMM/dlm