

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(433 Ingleside Avenue) *	OFFICE OF
1st Election District	
1 st Council District *	ADMINISTRATIVE HEARINGS
Kirk Bauer	
<i>Legal Owner</i> *	FOR BALTIMORE COUNTY
Petitioner *	Case No. 2021-0177-SPHA
* * * * *	* *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Variance filed on behalf of Kirk Bauer, Petitioner. The Special Hearing was filed pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 500.7 to request a Special Hearing to confirm a merger did not occur between the lots. The owner of the property owns Lots 27, 28, 29, 30, 31, 32, and 23. He wants to sell off Lots 30, 31, 32, and 23 to a builder and retain the rest of the lots. The property is located in a DR 5.5 zone, which requires a minimum 55 ft. lot width and a minimum 6,000 sq. ft. acreage.

A Variance from BCZR § 400.1 to allow an accessory structure to have a 0 ft. setback in lieu of the required 2.5 ft. setback.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was advertised and posted.¹

A Substantive Zoning Advisory Committee (“ZAC”) comments was received from the Department of Planning (“DOP”). They did not oppose the requested relief. A lengthy comment

¹ The Petition in this case refers exclusively to a letter submitted by Mr. Gary on John C. Mellema letterhead and addressed to “To whom it may concern.” The letter is a rambling attempt to describe the convoluted special hearing and variance request at issue. This letter was what was advertised and posted. Quite frankly, this letter would have confounded any interested person attempting to decipher what relief was being sought. As such, I do not believe the notice satisfied the requirements of B.C.C. Sec. 32-3-302(b)(2)(ii).

was also received from Joe Merrey of the Zoning Office, explaining that the proper avenue for the requested relief was via the lot line adjustment process.

Kirk Bauer appeared at the hearing in support of the Petition. Ben Gary of John Mellema Surveyors assisted the Petitioner. The site plan that was prepared was admitted as Petitioner's Exhibit 1. There were no protestants or interested citizens in attendance at the hearing; however, an email opposing the requested relief was submitted by a neighbor, Tom Healy.

At the outset of the hearing the undersigned explained to Petitioner and Mr. Gary that I was in accord with the comments by the Zoning Office. Namely, that I believed the proper avenue of relief was the lot line adjustment process. Further, I cautioned that the merger issue may well have been decided against them. As a result, I suggested that the best course of action for them would be to request that I dismiss the Petition without prejudice. Petitioner agreed.

THEREFORE, IT IS ORDERED this **28th** day of **September 2021**, by this Administrative Law Judge that the Petition for Special Hearing and for Variance relief is hereby **DISMISSED, WITHOUT PREJUDICE.**

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

PMM/dlm

Signed

PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County