

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
E/Side of Falls Road, 3,880' S of	
Beckleysville Road *	ZONING COMMISSIONER
(18603 Falls Road)	
<i>Edward B. Wilson, et ux, Legal Owners</i> *	OF
N/S of a private driveway, 1,250' E of Falls *	BALTIMORE COUNTY
Road, 3,880' S of Beckleysville Road	
(4209 Beckleysville Road) *	
<i>Richard Ciman & Mary Zodhiates, Legal Owners</i>	
5 th Election District	
3 rd Council District *	Case Nos. 2009-0193-SPH and
	2009-0194-SPH
<i>Petitioners</i> *	

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing filed by Edward B. Wilson, Jr. and his wife, Penny Rae Wilson, owners of 18603 Falls Road, and Richard Ciman and Mary Zodhiates, owners of 4209 Beckleysville Road. Since the properties abut one another, the two (2) cases were heard contemporaneously. As originally filed in both instances, relief was requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow non-density transfers of equal land portions between the parties of 2.2 acres.¹ The subject property and requested relief are more particularly described on the redlined site plan submitted in each case, which were accepted into evidence and respectively marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the proposed land exchanges was Richard E. Matz, with Colbert Matz Rosenfelt, Inc., the professional engineer who prepared the

¹ In response to a Zoning Advisory Committee (ZAC) comment received from Wally Lippincott, Jr., the Land Preservation Manager with the Department of Environmental Protection and Resource Management (DEPRM), the site plan(s) were amended subsequent to the hearing to reflect reduced transfers of 0.40 acre between the parties or just enough land to encompass the Wilson' driveway encroaching on the land of Ciman/Zodhiates.

site plan(s). Also in attendance was Jonathan R. Rathbone, a concerned citizen, farmer and resident of the community, who, following his review of the site plans, had no problem with the proposal as there were no visual changes or construction taking place on either property.

Testimony and evidence offered revealed that the subject properties are irregular shaped parcels located to the east of Falls Road (Md. Route 25), just south of Beckleysville Road in Hampstead. The properties are zoned R.C.2 and R.C.8. The Wilson property (Case No. 2009-0193-SPH) is identified as Parcel 212 on Maryland Tax Map 15 and contains 11.81 acres of agricultural land improved with a 1-½ story single-family dwelling built in 1986 and a detached garage. As illustrated on Exhibit 1, the Wilson's gravel and macadam driveway serving their improvements extends some 900 feet along the common boundary line and encroaches onto the lands of their neighbors, Richard Ciman and Mary Zodhiates. A non-density transfer of 0.40 acre (a narrow 15 foot strip) of Ciman/Zodhiates land that runs along the adjacent side of the existing driveway would allow the Wilsons to proceed with a lot line adjustment, thereby removing this potential cloud on their title.

The Ciman/Zodhiates property (Case No. 2009-0194-SPH) is identified as Parcel 216 on Tax Map 15 and contains 53.99 acres of agricultural land and improved with a 2-½ story circa 1921 single-family residence and a number of associated farm structures clustered along the northwestern portion of the tract. This property is subject to a Maryland Agricultural Land Preservation Foundation (MALPF) easement. Testimony indicated that these Petitioners intend to use their property for agricultural uses pursuant to the requirements of the agricultural preservation easement to which the property is subject. In this regard, the Wilsons will exchange a like amount or 0.40 acres of their adjacent land to the Ciman/Zodhiates for agricultural purposes. There are no density or development rights associated with the transfers of these

properties. However, with respect to the contemplated transfer of land from Parcel 216 to Parcel 212, Mr. Lippincott has raised concerns that I should refrain from ruling on the matters until the Maryland Agricultural Land Preservation Foundation (MALPF) has had an opportunity to review the request and issue a decision thereon. Accordingly, the record in both cases remained open pending a resolution by MALPF and DEPRM.

That favorable resolution having been received from Mr. Lippincott on March 8, 2010 that MALPF approved the transfer of land and upon due consideration of the testimony and evidence presented, I am easily persuaded to grant the requested relief. As noted above, the proposal is for the equal exchange of small portions of land and neither of the Petitioners will acquire any rights of subdivision. In my judgment, the conveyances will not be detrimental to the health, safety or general welfare of the locale and is entirely consistent with the R.C.2 and R.C.8 zoning and agricultural use of the subject and adjacent properties.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 8th day of July 2010, that the Petition for Special Hearing filed in Case No. 2009-0193-SPH seeking approval of a non-density transfer of a 0.40 acre of land from Edward B. and Penny Rae Wilson (18603 Falls Road) to Richard Ciman and Mary Zodhiates (4209 Beckleysville Road), in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Special Hearing filed in Case No. 2009-0194-SPH seeking approval of a non-density transfer of a 0.40 acre of land from Richard Ciman and Mary Zodhiates (4209 Beckleysville Road) to Edward B. and Penny Rae Wilson

(18603 Falls Road), in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The relief granted herein for the non-density transfer of 0.40 acres is conditioned on it not having density rights associated with its transfer.
- 3) Within one hundred twenty (120) days of the date of this Order, a new deed for the property shall be recorded in the Land Records of Baltimore County referencing this case and incorporating the conditions and restrictions of this Order.
- 4) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that any appeal of this decision must be entered within thirty (30) days of the date hereof.

WJW:dlw

SIGNED
WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County