

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
NE/S Barthel Road, 1,170' NW of		
Berans Road	*	ZONING COMMISSIONER
(1612-1615 Barthel Road)		
	*	FOR
8 th Election District		
3 rd Council District	*	BALTIMORE COUNTY
Charles A. Sturm, Jr., et ux	*	Case No. 2010-0024-SPH
Petitioners		

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Charles A. Sturm, Jr., and his wife, Cynthia K. Sturm. The Petitioners request a special hearing pursuant to Section 1B01.3.A.7(b) of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a 2nd Amendment to the Final Development Plan for “Part of Section II, of the Bearman Property” to allow for the resubdivision of Lot 20 into a two lot minor subdivision (Lots 20A and 20B). The subject property and requested relief are more particularly described on the two-paged second amended development plan, which was accepted into evidence and marked as Petitioners’ Exhibits 1A and 1B.

Appearing at the requisite public hearing were Charles Sturm, property owner; Bruce E. Doak and Scott A. Lindgren, consultants with Gerhold, Cross & Etzel, Ltd., the land planning company that prepared the amended plan. There were no Protestants or other interested persons present.

On behalf of the Petitioners, Mr. Doak explained the zoning history of the subject property and testified regarding the proposed amendment. The property is irregularly shaped and consists of approximately 6.31 acres located on the north side of Barthel Road, north of

Broadway Road in Lutherville. The property is a panhandle lot and split-zoned with 4.036 acres of R.C.4 land and 2.274 acres in the R.C.5 zone. The property is known as being Lot 20 in the subdivision of “Section II of The Bearman Property” that was initially approved by Baltimore County on July 18, 1979¹. On March 16, 1983, the first amended final development plan was approved for Section II of the Bearman Property development. That amendment reconfigured lot lines for 11 of the 20 lots due to a change in the R.C.5 zoning classification that permitted additional lots. The Petitioners purchased Lot 20 in 1985 and built a two-story, 2,912 square foot brick home on the southwestern portion of the lot and have resided on the property for the past 23 years.

As noted on Exhibit 1B, the property was also the subject of prior Zoning Case No. 2009-0132-SPH. In that matter, Petitioners proposed a minor subdivision of their property (Lot 20) and sought special hearing relief to permit a portion of their existing septic system to be located in a different zoning classification other than their dwelling. At the time of their purchase in 1985, the entire property was zoned R.C.5; however, during the 2000 Comprehensive Zoning Map Process (CZMP), a portion of the property was re-zoned R.C.4. According to Mr. Lindgren, a stream system travels through the tract that eventually drains into the Loch Raven Reservoir. By his Order, Deputy Zoning Commissioner Thomas H. Bostwick permitted a portion of the septic system to be in a different zone allowing the minor subdivision plan (08092M) to proceed through the Development Review Committee.²

¹ The approval of this development was granted by the County Review Group (CRG), the agency charged with the responsibility for reviewing development proposals at that time. The CRG was thereafter discontinued as an approval process was replaced by the current development review regulations as contained in Article 32 of the Baltimore County Code (B.C.C.).

² To the extent applicable, the findings and conclusions set forth in this prior Order (2009-0132-SPH), allowing a portion of an existing septic system in two different R.C. zones, are adopted by reference and incorporated herein.

At issue in the instant case is the Petitioners request to obtain approval of a 2nd Amendment to the Final Development Plan in order to finalize their minor subdivision. B.C.Z.R. Section 1B01.3.A.7 provides that an amendment to a previously approved development plan is permissible through the special hearing criteria as set forth in B.C.Z.R. Section 502.1. Specifically, the Zoning Commissioner is required to conduct a public hearing to determine whether the proposed amendment is appropriate and will not be detrimental to the health, safety and general welfare of the locale.

Based upon the uncontradicted testimony and evidence offered, I am persuaded that Special Hearing relief should be granted. The proposed amendment is entirely consistent and compatible with the existing subdivision. The proposal represents an identical housing type and will not exceed the density limits applicable. Clearly, there will be no detrimental impact on the health, safety and general welfare of the existing community and locale, and the plan meets the criteria given in Section 502.1 of the B.C.Z.R. (Special Exceptions). There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency and the Office of Planning finds the proposed amendment to be “within the spirit and intent of the R.C.4 and R.C.5 zones and also with the approved development plan”.

Pursuant to the advertisement, posting of the property and public hearing on this Petition 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 2nd day of September 2009, that the Petition for Special Hearing to approve a 2nd Amendment to the Final Development Plan for “Part of Section II, of the Bearman Property”, pursuant to Section 1B01.3.A.7(b) of the Baltimore County Zoning Regulations (B.C.Z.R), in accordance with Petitioners’ Exhibits 1A and 1B, be and is hereby GRANTED.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the Baltimore County Code.

WJW:dlw

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