

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
N/W Corner of Old Harford Road and		
Jonathans Court	*	OFFICE OF ADMINISTRATIVE
9 th Election District		
6 th Councilmanic District	*	HEARINGS FOR
(8414 Old Harford Road)		
	*	BALTIMORE COUNTY
Merril E. and Adelina P. Plait		
<i>Petitioners</i>	*	CASE NO. 2011-0205-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for Baltimore County for consideration of a Petition for Special Hearing filed by the owners of the subject property, Merrill E. and Adelina P. Plat. Petitioners request Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to extend or remove Condition No. 2 in prior Case No. 2010-0108-SPHA wherein the Petitioners were granted two (2) years from the date of approval of the minor subdivision to construct a new home. The subject property and requested relief are more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the public hearing in support of the special hearing request were Petitioners Merrill and Adelina Plait, property owners. There were no Protestants or other interested persons in attendance.

Testimony and evidence offered revealed that the subject property is square-shaped and contains approximately 11,168 square feet or 0.256 acres, more or less, zoned D.R.5.5. The property is approximately 149 feet wide (fronting Old Harford Road) and 149.42 feet wide (at the rear) by 146.19 feet deep and 129.55 feet deep (bordering Sonn Lane) and is located on the

southwest corner of the intersection of Old Harford Road and Sonn Lane, just north of Kings Ridge Road and south of Putty Hill Avenue in the Parkville area.

Further evidence revealed that pursuant to prior Case No. 2010-0108-SPHA approved on January 7, 2010, by Thomas H. Bostwick, Deputy Zoning Commissioner, relief was granted for the subject property with conditions. At that time, the request was the result of the proposed minor subdivision, which was under review and close to being approved by Baltimore County. Once approved, the existing garage would not have a principal dwelling on the same lot, at least until Petitioners built their new home. In order to ensure that this lot would not be left without a principal dwelling for an extended period, Mr. Bostwick conditioned that the special hearing relief granted would be valid only for a period of two (2) years from the date of minor subdivision approval. Stated in another way, if Petitioners did not follow through with their plans to construct a new home on the subject property within two (2) years of the date of approval of the minor subdivision, then the relief would become null and void and Petitioners or subsequent owners would be required to file a subsequent special hearing request to permit an existing accessory structure on a lot without an existing principal dwelling. Hence, this request has now returned before the undersigned for extension or removal of these conditions.

Mr. Plait testified to the various technical delays in completing the minor subdivision process until just before the end of 2010. He noted that the plan for the new construction was dependent on selling the existing dwelling. He observed that, given the present state of the real estate market, the property has only been seen by prospective buyers on a limited basis and no sale has been accomplished. He believed that the chance of sale in the near term future is also quite problematic.

He noted that the subject accessory structure has no water or sewer capability at the present time and will remain in that condition until the new residence is built on the site.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record in this case. A specific comment was received from the Office of Planning in which an extension was not opposed. However, a request was made that any relief should be subject to the original five conditions cited in the Zoning Commissioner's Order for Case 2010-0108-SPHA dated January 7, 2010.

Considering all of the testimony and evidence presented, I am persuaded to grant the special hearing relief. I further find that the granting of the relief as set forth herein can be accomplished without injury to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by Petitioners, I find that Petitioners' request for special hearing should be granted.

THEREFORE, IT IS ORDERED this 17th day of February, 2011 by this Administrative Law Judge that Petitioners' Special Hearing request from Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to extend or remove Condition No. 2 in prior Case No. 2010-0108-SPHA wherein the Petitioners were granted two (2) years from the date of approval of the minor subdivision to construct a new home, be and is hereby GRANTED; and that said Condition No. 2 is extended for an additional eighteen (18) months.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. All of the conditions imposed by the January 7, 2011 Order issued in this matter shall remain in full force and effect. A copy of said Order is attached hereto and is made a part hereof.
3. When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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

Signed _____
LAWRENCE E. STAHL
Administrative Law Judge
for Baltimore County

LES:pz

Attachment