

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(4137 Wards Chapel Road)</b>		
2 <sup>nd</sup> Election District	*	OFFICE OF
4 <sup>th</sup> Councilmanic District		
Debra G. Schubert, P.R. for Estate of	*	ADMINISTRATIVE HEARINGS
Elise M. Temple		
Petitioner	*	FOR BALTIMORE COUNTY
	*	<b>Case No. 2014-0174-SPH</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed by Debra G. Shubert, Esquire, who is the personal representative of the Estate of Elsie M. Temple, (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve the transfer for non-density purposes of an 8.95 acre parcel of land from a 51.95 acre vacant parcel adjacent to Powells Run Road (Liber 2145, Folio 208) to an existing 1.05 acre parcel ( improved with a single family dwelling) at 4137 Wards Chapel Road (Liber 4577, Folio 312) and to confirm that the proposed 10.00 acre northern parcel will have no additional density available for future subdivision.

Appearing at the public hearing in support of the requests was Randy Bachtel, whose firm prepared the site plan. Debra G. Schubert, Esquire, represented the Petitioner. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants or interested citizens in attendance at the hearing. The only substantive Zoning Advisory Committee (ZAC) comment was submitted by the Department of Environmental Protection and Sustainability (DEPS) dated April 17, 2014.

The subject property consists of two tracts of land totaling 53.00± acres, and is zoned RC 2. The larger tract totals 51.95 acres and is unimproved. This property was conveyed to the decedents by deed in 1952. The smaller tract, known as 4137 Wards Chapel Road, is 1.05 acres and is improved with a single family dwelling. This lot was created by deed in 1966. Under the B.C.Z.R., no lot zoned RC 2 and “having a gross area of less than two acres may be subdivided.” B.C.Z.R. § 1A01.3.B.1. Thus, this smaller parcel, referred to in the Petition as the “northern parcel,” cannot be subdivided, and the same would hold true if the 8.95 acre transfer is approved (creating a 10.00 acre “northern parcel”), since only transfers for “non-density purposes” are permitted in the R.C. zones. Zoning Commissioner’s Policy Manual (“Z.C.P.M.”) § 1A00.4.b.

Counsel indicated that a settlement was reached in the Orphan’s Court whereby 8.95 acres of land would be transferred to the 1.05 acre lot with the single family dwelling, creating a 10 acre parcel. The remaining parcel would then be 43 acres. This larger 43 acre parcel may be subdivided, according to current regulations, into two lots (total). B.C.Z.R. § 1A01.3.B.1. Thus, in keeping with the Z.C.P.M. that authorizes such transfers, the conveyance would be for non-density purposes; i.e., to effectuate the settlement reached in the Orphan’s Court.

THEREFORE, IT IS ORDERED this 27<sup>th</sup> day of May 2014, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to approve the transfer for non-density purposes of an 8.95 acre parcel of land from a 51.95 acre vacant parcel adjacent to Powells Run Road (Liber 2145, Folio 208) to an existing 1.05 acre parcel (improved with a single family dwelling) at 4137 Wards Chapel Road (Liber 4577, Folio 312) and to confirm that the newly created 10.00 acre northern parcel will have no additional density available for future subdivision, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- The 8.95 acre transfer approved herein is for non-density purposes, and the resulting 10 acre “northern parcel,” improved with a single family dwelling known as 4137 Wards Chapel Road, may not be subdivided, pursuant to the B.C.Z.R.
- Any future subdivision of the larger 43 acre parcel shall be subject to all County requirements, and the location of any dwelling(s) or structure(s) thereon must be approved by DEPS.

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

Order.

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Signed \_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB/sln