

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(17318 Falls Road)</b>		
5 <sup>th</sup> Election District	*	OFFICE OF
3 <sup>rd</sup> Council District		
Michael P. Smith, Personal Representative	*	ADMINISTRATIVE HEARINGS
(Estate of Myles R. McComas)		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner	*	<b>Case No. 2015-0208-SPH</b>

\* \* \* \* \*

**ORDER ON PETITIONER’S MOTION FOR RECONSIDERATION**

Now pending in the above matter is a Motion for Reconsideration filed by the Petitioners. While such motions are frequently filed in zoning cases, it is not often that a Petitioner can show “some new or different factual situation exists that justifies the different conclusion.” Calvert Co. v. Howlin Realty, Inc., 364 Md. 301, 325 (2001). In this case, I do not believe the Petitioners have presented any new facts or evidence, and as such the Motion will be denied.

The task in the above case - - determining what if any interest in real property was acquired by the State of Maryland in connection with a roadway project -- would be a difficult one even if the events in question were relatively recent. But the task in this case is made much more difficult by the fact that the acquisition in question took place in 1927. The only evidence presented was a plat (admitted as Petitioners’ Exhibit 2) executed by several adjoining landowners. That document indicates that the owners granted and conveyed to the State “the right of way and land” shown thereon. But there is no indication anywhere within the document that a fee simple absolute title was granted, and the law in 1927 (Maryland Annotated Code, Article 92, § 28 [1924 ed.]) in fact allowed the State to acquire easements by gift, which may very well be what occurred in this case.

The bottom line is that without the benefit of expert testimony and/or additional evidence on the issue, I am left to hazard a guess as to whether a fee simple or some other estate in land was

conveyed in 1927. Although Petitioners cite several sections of the Maryland Annotated Code, there is no indication that such statutes were “on the books” in 1927.

Finally, the Petitioners’ Motion has created some confusion concerning the May 15, 2015 Order in this case and the relief being sought in the Motion. Petitioners contend that the acreage to be inherited by Michael McComas (the unimproved parcel to the east of Falls Road) “has two density units.” *See*, Petitioners’ Motion, pp. 3-4. But on page 15 of their Motion, Petitioners request confirmation “that the parcel on the east side contains one density unit.” Likewise, the Petitioners contend that the parcel to be inherited by the McComas grandchildren (to the west of Falls Road) has one remaining density unit, although the request for relief seeks confirmation that “the parcel on the west side contains two density units.” *See*, Petitioners’ Motion, p.15.

Just to be clear, the parcel situated to the east of Falls Road would -- if deemed a separate parcel for development and zoning purposes -- yield two lots, pursuant to Baltimore County Zoning Regulations (B.C.Z.R.) § 1A01.3.B.1. The parcel to the west of Falls Road, which was subdivided in 1987, would have no further rights of subdivision although Petitioners would have the right to one additional dwelling (i.e., two lots total). But, as noted at the outset, the Motion will be denied.

THEREFORE, IT IS ORDERED this 24<sup>th</sup> day of **June, 2015**, that the Motion for Reconsideration be and is hereby DENIED.

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

JEB/dlw

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County