



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

March 13, 2013

Robert and Betty Ann Palmer
412 Armstrong Road
Baltimore, MD 21220

Peter M. Zimmerman
People's Counsel for Baltimore County
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, MD 21204

Michael Field, County Attorney
Nancy C. West, Assistant County Attorney
Baltimore County Office of Law
The Historic Courthouse
400 Washington Avenue
Towson, MD 21204

RE: *In the Matter of: Robert and Betty Ann Palmer – Legal Owners
Baltimore County, Maryland – Petitioners*
Case No.: MC-13-02

Dear Counsel and Mr. and Mrs. Palmer:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in black ink that reads "Theresa Shelton/ke".

Theresa R. Shelton
Administrator

TRS/klc
Enclosure
Multiple Original Cover Letters

c: The Honorable Cathy Bevins, 6th District, Baltimore County Council
Fred Homan, Administrative Officer
Arnold Jablon, Director/PAI
Jessie Bialek/Department of Planning
Andrea Van Arsdale, Director/Department of Planning
Donnell Zeitgler/Department of Planning
Jeff Mayhew, Deputy Director, Department of Planning

IN THE MATTER OF
BALTIMORE COUNTY, MARYLAND;
- Petitioner
ROBERT AND BETTY ANN PALMER;
- Legal Owner
412 ARMSTRONG ROAD

15th ELECTION DISTRICT
6th COUNCILMANIC DISTRICT

RE: ZONING MAP CORRECTION

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. M.C. 13-02
*

* * * * *

OPINION

The above entitled matter came on for hearing before this Board on January 16, 2013 on an Amended Petition for Zoning Map Correction filed by Michael E. Field, County Attorney, and Nancy C. West, Assistant County Attorney, Petitioners, on behalf of Baltimore County, Maryland.

A public hearing was held on February 27, 2013. Public Deliberation was held at the conclusion of the hearing.

Nancy C. West, Assistant County Attorney represented Baltimore County. Robert and Betty Ann Palmer were not able to attend the hearing and were not represented by counsel. Peter Max Zimmerman, People's Counsel for Baltimore County also participated.

Robert and Betty Ann Palmer ("Palmer") are the fee simple owners of a parcel of land, namely, Tax Map 91 Parcel 310, with a property address of 412 Armstrong Road, consisting of 2.64 acres. The parcel is located on the eastern side of Edwards Lane Peninsula, in the Bowleys Quarter section of Baltimore County, Maryland 21220 ("the Property"). A deed for the Property is recorded in the Land Records for Baltimore County at Liber 24368, Folio 396. The Palmers have owned the property since 1983.

In 1983 the Palmers predecessor in title, Vincent Trovato et ux, were granted parking

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variances for the Property that allowed them to store boats on residentially zoned land (Case No. 83-128-SPHA). In 1992 the County Council enacted Bill No.149-92 that established a new category of zoning, namely, the BMB (Business Maritime Boatyard) zoning classification. This was in recognition of the County's characteristic development pattern along the major river tributaries that provide access to the Chesapeake Bay and attract residential and maritime uses.

The Palmers wanted to avail themselves of the new zoning classification that recognized their long standing maritime use and approached the County Council about the matter, which initiated an Issue in the 1992 Comprehensive Zoning Map Process ("CZMP"), namely, Issue No. 5-105. The County Council made a decision to rezone the Palmers' Property from DR-5.5 (Density Residential) to BMB (Business Maritime Boatyard) for the entire 2.64 acres.

Thereafter, the Department of Planning incorrectly mapped the 2.64 acres of BMB zoning associated with the 1992 CZMP Issue No. 5-105 as adopted by the County Council. The BMB zoning boundary was drawn diagonally through the existing boat storage building instead of along the property line, and therefore, erroneously extended the BMB beyond the Palmer's property.

In the 2000 CZMP, the Bowleys Quarters Improvement Association ("the Association") requested a down-zoning of 48.9 acres from DR-5.5 to DR-3.5. While the Association's request, namely, Issue No. 5-019, included the DR-5.5 zoning on the Palmers' property, it specifically excluded the BMB zoning on the Palmer's property. The 2000 CZMP indicates that the County Council granted the Association's request to rezone only 42.4 acres to DR-3.5. As to the remaining 6.5 acres of the original 48.9 acres, the County Council rezoned 4.0 acres to BMB, and 2.5 acres to BMM.

The 4.0 acres that were rezoned to BMB by the County Council affected not only the

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Palmer's property but another property owner known as the Bissell Family, LLC ("Bissell"). Of the 4.0 acres, 3.02 acres of BMB zoning were added to the Bissell's property on the western side of the Edwards Lane peninsula, while the remaining 0.98 acres of BMB zoning were added to the Palmer's property. The Department of Planning incorrectly mapped the BMB zoning as adopted by the County Council in both the 1992 and 2000 CZMP. In 1992, the Department of Planning erroneously mapped Issue No. 5-019. In corrective actions, the BMB zoning line through the boat storage building was corrected on the western property line and the BMB zoning line was moved to align with the southern property line. However, the Department of Planning inadvertently truncated the BMB zoning line on the western panhandle of the Palmer Property in the 2000 CZMP process.

As a condition precedent to the filing of this Amended Petition, the Department of Planning has notified the County Council of its intention to correct this technical drafting error. A copy of the letter dated July 9, 2012, from Andrea Van Arsdale, Director of the Department of Planning to the Honorable Cathy Bevins was presented as evidence.

The Board has given due consideration to the Petition, the Certification, exhibits presented at the time of the hearing, as well as the testimony presented in this case by Donnell Zeitgler of the Baltimore County Department of Planning.

The Board finds that the present split zoning of DR-5.5 and BMB on the property known as Tax Map 91 Parcel 310 at 412 Armstrong Road is incorrect.

ORDER


IT IS THEREFORE, this 13th day of March, 2013 by the Board of Appeals of
Baltimore County

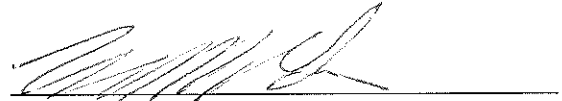
ORDERED that Tax Map 91 Parcel 310 at 412 Armstrong Road be reclassified from its current split zoning of DR-5.5 (Density, Residential) and BMB to BMB in accordance with the legislative intent of the County Council; and it is further

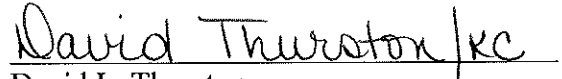
ORDERED that the Department of Planning make the necessary change and correction as set out herein, on the latest Comprehensive Zoning Map for Baltimore County with regard to the subject property.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Lawrence S. Wescott, Chairman


Wendell Grier


David L. Thurston