

IN THE MATTER OF:
William and Karen Chandler
2890 Anderson Road

DRC No.:101116-LLA2
PAI No: 16-00120

7th Election District
3rd Councilmanic District

* BEFORE THE
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* CASE NO: CBA-17-016

* * * * *

OPINION

This matter comes before the Board as an Appeal of a September 30, 2016 denial letter from W. Carl Richards of the Department of Permits, Approvals and Inspections, which denied the Petitioners, William and Karen Chandler’s application for a Limited Exemption from the subdivision/development review process for 2890 Anderson Road pursuant to § 32-4-106(a)(1) of the Baltimore County Code. An evidentiary hearing was held before this Board on February 2, 2017 with Lawrence E. Schmidt, Esquire of Smith, Gildea and Schmidt appearing on behalf of the Petitioners. A Public Deliberation was held on March 9, 2017.

FACTS

On September 19, 2016, the Petitioners, through their consultant, Kenneth J. Wells and their attorney, filed a request for a limited exemption of the development review and approval process for the property located at 2890 Anderson Rd (the “Chandler Property”), pursuant to Baltimore County Code (“BCC”) § 32-4-106(a)(1)(viii). On September 30, 2016, the Department of Permits, Approvals and Inspections issued a notice denying the Petitioners’ request for limited exemption under BCC § 32-4-106(a)(1)(viii), further stating that the Chandler property proposed development would be processed pursuant to BCC § 32-4-106(b)(5). This Board previously approved a lot line adjustment and determined that there were 8 lots of record on the subject

property in Case Number 16-025-SPH. The Board in that case determined that the lot line adjustment would not create any additional density units.

ARGUMENT

BCC § 32-4-106(a)(1)(viii) states in pertinent part:

(1) The following proposed development is exempt from compliance with Subtitle 2 of this title:

. . . (viii) Lot line adjustments in residential zones for lots that are not part of an approved Development Plan under this title or an approved Development Plan under Article 1B of the Baltimore County Zoning Regulations. For purposes of this subsection, “lot line adjustment” means one or more alterations of a divisional property line or lines between two or more lots in common ownership or by agreement of the owners, provided that the alteration does not result in an increase or decrease in the number of lots and there is no increase in total residential density available to the lots considered as a whole . . .

BCC § 32-4-106(b)(5) states in pertinent part:

(b) Exemption from community input meetings and Hearing Officer’s Hearing. The following development is exempt from the community input meeting and the Hearing Officer’s hearing under Subtitle 2 of this title:
(5) The subdivision of land into three or fewer lots for residential single – family dwellings; . . .

BCC § 32-1-101(j) defines a Subdivision of follows:

- (1) “Subdivision” means the division of a lot, tract, or parcel of land into two or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of sale or building development.
- (2) “Subdivision” includes re-subdivision and, where appropriate to the context, relates to the process and subdividing or to the lands or territory divided.
- (3) Provided no new streets are involved, “subdivision” does not include the following:
 - (i) Division of land for agricultural purposes where the resulting parcels are three acres or larger in size;
 - (ii) Divisions of property by testamentary or intestate provisions; or
 - (iii) Division of property upon court order.

BCC § 32-4-101(p) defines “Development” as the following:

- (p) “Development” means:
 - (1) The improvement of property for any purpose involving building;

- (2) The subdivision of property;
- (3) The combination of any two or more lots, tracts, or parcels of property for any purpose;
- (4) Subjecting property to the provisions of the Maryland Condominium Act; or
- (5) The preparation of land for any of the purposes listed in this subsection.

BCC § 32-4-101(yy) defines "Subdivision" as the following:

(yy) "Subdivision" means:

- (1) The division of property into two or more lots; or
- (2) The combination of lots, parcels, tracts, or other units of property previously divided for the purpose, whether immediate or future, of sale, rental, or building development.

Petitioners' expert, Kenneth J. Wells testified as to whether the Petitioners' proposed development conformed with the requirements for a limited exemption as defined in BCC § 32-4-106(a)(1)(viii). Mr. Wells, in applying the circumstances of the Petitioners' proposed development to this code section and in context with the definitions provided above, opined that it is clear that the Petitioners' proposed development conforms to the requirements found in BCC § 32-4-106(a)(1)(viii). Mr. Wells explained that the Petitioners are clearly seeking to develop a parcel in keeping with a lot line adjustment between lots in common ownership by the Petitioners that does not result in the increase of the total number of lots or in the total residential density available to the lots considered as a whole.

To further explain the County's denial of the Petitioners' request for limited exemption, the Board subpoenaed Jan Cook, Development Manager at P.A.I. to testify before the Board. Mr. Cook testified that there had been confusion as to lines left on the plan prepared by Mr. Wells that showed lot lines from prior deeds which lots had been deemed illegal. Mr. Cook admitted that he mistakenly perceived these lines as creating additional lots and that would have precluded the Petitioners from receiving a limited exemption. After receiving clarification that the plan was merely a lot line adjustment and did not rely on any previous lot configurations created by the

illegal conveyances, Mr. Cook did not articulate any reason why the Petitioners proposed development would not qualify for a limited exemption pursuant to BCC §32-4-106(a)(1)(viii).

CONCLUSION

The Board finds in light of the evidence presented, and the holding in *Beth Tfiloh Congregation of Baltimore City, Inc. v. Glyndon Community Association, Inc.*, 152 Md. App. 91, 116, 831 A.2d 93 (2003), the request for a limited exemption of the development review and approval process for the Chandler Property, pursuant to Baltimore County Code (“BCC”) § 32-4-106(a)(1)(viii) previously filed by the Petitioners on September 19, 2016 is GRANTED.

ORDER

THEREFORE, IT IS THIS 17th day of May, 2017

by the Board of Appeals of Baltimore County,

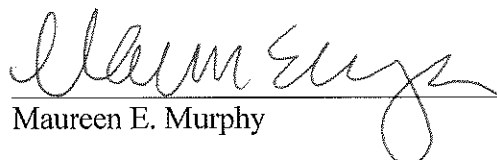
ORDERED the request for a limited exemption of the development review and approval process for the property located at 2890 Anderson Rd (the “Chandler Property”), pursuant to Baltimore County Code (“BCC”) § 32-4-106(a)(1)(viii) previously filed by the Petitioners on September 19, 2016 is GRANTED.

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**



Andrew M. Belt, Chairman



Maureen E. Murphy



Meryl W. Rosen



Board of Appeals of Baltimore County

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May 17, 2017

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

RE: In the Matter of: *William and Karen Chandler*
Case No.: CBA-17-016

Dear Mr. Schmidt:

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 cursive script that reads "Sunny Cannington".

Krysundra "Sunny" Cannington
Administrator

KLC/tam
Enclosure

c: William and Karen Chandler
Anitra and Jerome Schorr
Office of People's Counsel
Andrea Van Arsdale, Director/Department of Planning
Jeffrey Livingston/DEPS
Vincent J. Gardina, Director/DEPS
W. Carl Richards, Jr., Zoning Supervisor/PAI
Jan Cook, Development Manager/PAI
Arnold Jablon, Deputy Administrative Officer, and Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law