

<b>RE: PETITIONS FOR SPECIAL HEARING *</b>	<b>BEFORE THE</b>
<b>AND VARIANCE</b>	<b>ZONING COMMISSIONER</b>
NE/Side of York Road (MD Route 45), 950' *	
S of Intersection of York Road and Old	
Harris Mill Road	*
<b>(21429 York Road)</b>	*
7 <sup>th</sup> Election District	*
3 <sup>rd</sup> Council District	*
Ruth S. Thompson, et al – <i>Legal Owner</i>	*
Randy Slaysman – <i>Contract Purchaser</i>	
Petitioners	*

\* \* \* \* \*

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by Ruth Thompson, owner of the property, and Randy Slaysman, the contract purchaser, through their attorney, Lawrence E. Schmidt, Esquire. The Petitioners request a special hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), seeking an interpretation and approval of: **(1)** A modified parking plan as shown on the Petitioners' site plan per B.C.Z.R. Section 409.12; **(2)** The retention of the existing non-conforming structures while changing the underlying non-conforming use pursuant to B.C.Z.R. Section 104; **(3)** The continued use of the rear building as a non-conforming meat processing facility pursuant to B.C.Z.R. Section 104; **(4)** A zoning use division line(s) as shown on the plan per B.C.Z.R. Section 102.2; **(5)** The front, rear and side yard setbacks to remain unlandscaped and in their current state pursuant to B.C.Z.R. Section 259.3.C.3.a; **(6)** The gross floor area on the first floor and the gross floor area to be calculated as shown on the plan pursuant to B.C.Z.R. Section 259.3.C.1(a); **(7)** To confirm the Contract Purchaser's proposed operation is permitted under the Business Major Use regulations specified in B.C.Z.R. Section

233.1; **(8)** That a historic residential structure may remain attached by a covered walkway to a commercial building, and **(9)** That the existing landscaping as described on the Petitioners' site plan may remain as shown.

In addition, variance relief is requested as follows: **(1)** *For Existing Building 1* - An existing front yard setback to the property line of 0 feet in lieu of the required 15 feet and an existing side yard setback to the property line of 8.3 feet in lieu of the required 15 feet pursuant to B.C.Z.R. Section 259.3.C.2; **(2)** *For Existing Building 2* - A front yard setback to a zoning division line of 13.6 feet in lieu of the required 15 feet, an existing side yard setback to a property line of 7.6 feet in lieu of the required 15 feet and an existing rear yard setback to a property line of 5.6 feet in lieu of the required 15 feet pursuant to B.C.Z.R. Section 259.3.C.2; **(3)** A floor area ratio for Use Area 1 (as shown on Petitioners' site plan) of 0.38 in lieu of the required 0.2 per B.C.Z.R. Section 259.3.C.1(b); **(4)** A floor area ratio for Use Area 2 (as shown on Petitioners' site plan) of 0.33 in lieu of the required 0.2 per B.C.Z.R. Section 259.3.C.1(b); **(5)** All of the parking area to remain impervious in lieu of the required 7% pervious surface area pursuant to B.C.Z.R. Section 259.3.C.3(b), and **(6)** To allow no trees per eight (8) parking spaces in lieu of the required one (1) tree per eight (8) spaces required pursuant to B.C.Z.R. Section 259.3.C.3(b). The subject property and requested relief are more particularly described on the site plan which was submitted into evidence and marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the requests were Edward Thompson, the son of Ruth Thompson, property owner; Bernie Caplan, his real estate agent, and Randy Slaysman, the contract purchaser. Also present and testifying at the hearing was Steve Warfield, a professional engineer with Matis Warfield, Inc., the firm of consulting engineers/surveyors, who prepared the site plan. The Petitioner, Randy Slaysman, was

represented by Lawrence E. Schmidt of Gildea & Schmidt, LLC. There were no Protestants or other interested persons present.

The subject property under consideration consists of two (2) existing lots of record, identified on Maryland Tax Map 3 as Parcels 3 and 47, and as combined total approximately 0.69 acres of gross area, zoned B.M.-C.R. The property immediately abuts York Road in the northern Baltimore County community of Maryland Line. The village of Maryland Line is a small commercial enclave located within the large rural area, which encompasses much of northern Baltimore County. This village is a small county town in which a series of commercial and business uses are clustered. The main street, which runs in a north/south direction through Maryland Line, is York Road (MD Route 45).

The subject rectangular shaped property is located within the village and has frontage on the east side of York Road. The larger lot, Parcel No. 3 - (0.294 acres), is improved with three (3) structures. However, two (2) of the buildings are connected by an existing covered walkway, therefore, under the interpretation through the Baltimore County Zoning Regulations (B.C.Z.R.), those two (2) buildings (for zoning purposes) are one. Parcel No. 47 – (0.37 acres) is an accessory use to Parcel No. 3 for ingress/egress and customer parking.

Immediately adjacent to the right-of-way of York Road along the front of the property is an existing two-story 1,712 square foot residential building with an 856 square foot basement. The building is residential in character and has been occupied as a dwelling for years. It is an old building, which was constructed on the property many years ago, prior to the adoption of the first set of zoning regulations in Baltimore County in 1945. The building continues to be used for residential purposes, as it has been for many years. It is presently rented by the current property owner and the contract purchaser anticipates continuing this arrangement.

This existing residential structure is connected by an existing covered walkway to a larger commercial building. That commercial building is approximately 3,561 square feet in area. It is a one-story building that was operated for many years as "Thompson's Market." Mr. Edward Thompson, son of the original proprietors of the market, testified that his parents operated this market for many years. He produced photographic evidence that the market was in operation as early as 1942. The market served as a general store for the northern Baltimore County community. The market operation continued uninterruptedly and continuously for many years until Mr. Thompson's parents retired and sold the market business to others in the 1990's. The market operation closed several years ago.

The third building on the site (shown has building number 2 on the plan) is in the rear of the property. This is an existing one-story 1,754 square foot building which is attached to a refrigeration unit approximately 882 square feet in area. At one time, this structure was used as a slaughterhouse in connection with the market operation. However, in the more recent past the building has been used on a seasonal basis. Specifically, given the nature of the rural locale, the building has been used during deer hunting season. Animals killed during the hunt are brought to the site where they are butchered and processed for the venison meat. As noted above, this is a seasonal operation which only occurs during the deer hunting season.

As noted, in addition to the structures on the site as described above, the property also features a parking lot area. In the past, the parking area was primarily utilized for patrons of the market. However, sporadic traffic was produced for the meat processing operation. Additionally, given its locale, the site is not served by public water or sewer. However, there is an existing functioning septic system on the property and private well. All of these details of the site are more particularly shown on the site plan (Petitioners' Exhibit 1) as well as a series of

photographs that were presented at the hearing. Some of these photographs depict the conditions over the years, while others show current conditions.

The photographs provided the undersigned with a clear understanding of the historic use and development of the site as well as its current status. As noted above, Mr. Slaysman is acquiring the property from the Thompson family. He desires to continue the residential use of the property within the existing dwelling. Additionally, subject to the approval of the Department of Environmental Protection and Resource Management (DEPRM), he proposes continuing the seasonal meat processing operation to the rear. In this regard, a Zoning Advisory Committee (ZAC) comment was received from DEPRM which indicated that the septic system would need to be evaluated in order for that use to continue. Mr. Slaysman indicated that he would work with DEPRM and understood that a continued operation would be subject to that agency's review and approval. Such review may require the cleaning, repair and inspection of the existing septic system to ensure it is operational. Suggested improvements are contained within a letter, dated March 23, 2009, from Robert Powell, Supervisor of the Soil Evaluation section of DEPRM. From a zoning perspective, I find that the meat processing operation is permissible as non-conforming and may continue. However, my approval relates only to the zoning question presented as it relates to this operation. Whether the use can actually continue from an environmental perspective will be at the discretion and direction of DEPRM.

As to the main building, Mr. Slaysman is an artisan by occupation and produced an exhibit which depicts his most interesting occupation. He works with sheet metal and other metal products to manufacture and produce high quality metal products. These include gates, fences, fireplace covers, railings, etc. A series of photographs were produced at the hearing which depicts the items he manufactures. Mr. Slaysman indicated that his clients are largely

custom homebuilders and/or upscale property owners. The products that he produces are the work of a craftsman and they are ornate and high quality. As noted above, he manufactures gates for private driveways, wrought iron fences and similar products for residential and commercial use.

Mr. Slaysman anticipates converting a portion of the market building to accommodate his business. In addition to himself, he has one apprentice assistant who assists him. There are no other employees. Moreover, given the nature of the business, the use is anticipated to generate minimal traffic. Typically, he receives an order, manufactures the product and then transports it to the location for installation. There is no showroom, public viewing area, etc. Much of his business is generated by longtime custom builders and clients who are by referral. It is anticipated that the traffic to be generated to the property as a result of this business will be minimal and certainly significantly less than was produced by the market operation.

In order to obtain financing for the acquisition of the property, Mr. Slaysman filed the instant petitions to legitimize the existing and proposed uses on the property as well as the improvements. The site plan which was submitted divides the property into two (2) "zoning use areas." The first zoning use area encompasses the former market building and attached residential unit as well as a parking area attributed thereto. The second zoning use area encompasses the meat processing building, attached refrigeration unit and parking associated therewith. As a result of this zoning use division line, as well as the unusual configuration of the property, a series of zoning variances are generated or required. It is to be noted that none of the variances are for new construction. All of the variances requested relate to existing improvements and their location relative to the zoning use division line and/or property line. Moreover, variances are requested for the floor area ratio for the use areas and the existing

parking arrangement. All of the variances are clearly shown on the site plan.

As to this variance relief, I am persuaded that they should be granted. It is again to be emphasized that the site is unique, given its unusual shape, historic use and development. Moreover, the existing layout is consistent with the theme of development in the Maryland Line community. The buildings on both sides of the property, as well as, across York Road are similarly situated on their respective lots. A legitimization of the existing location of these buildings through the requested variances is appropriate.

The petition for special hearing is likewise to legitimize existing and proposed uses and circumstances on the site. Relief is requested to approve the parking as it has existed for years. In this regard, the testimony from Mr. Slaysman regarding his proposed business is persuasive that the parking available on site will easily accommodate his business. A ZAC comment was received from Development Plans Review which requested a slight modification to that parking arrangement. A similar comment was received from the State Highway Administration. These comments requested the elimination of the two (2) parking spaces immediately adjacent to the York Road right-of-way. This is to improve traffic circulation and to prevent any potential back-up problems on York Road. In order to accommodate this request, the plan was redlined in open hearing to show the installation of planters so as to eliminate the potential of parking in those areas. The handicapped location spaces were therefore relocated. Under the revised plan, 27 parking spaces are provided, which will easily accommodate the anticipated volumes of traffic. The balance of the special hearing request is likewise to legitimize the site plan and existing conditions. As noted above, the rear building use as a meat processing facility is non-conforming given its longstanding use. Moreover, the zoning use division lines as shown on the plan are appropriate and the site layout and design accommodates the separate structures. Thus,

those portions of the special hearing related to the existing setbacks and floor areas shall be approved.

Moreover, as noted above, Mr. Slaysman's operation fits within a permitted use designated under B.C.Z.R. Section 233.1. Therein, carpenter shops, sheet metal operations and similar uses are allowed in the B.M. zone. I easily find that Mr. Slaysman's occupation, particularly given his qualifications as an artisan, falls within this use. Thus, his proposed operation is permitted under the B.C.Z.R.

The only prong of the special hearing request which will not be granted is designated as number two and is not required. Specifically, special hearing relief was requested in the alternative to the petition for variance to allow the retention of the existing non-conforming structures. Having granted the variances for those buildings, this special hearing relief is not required and this request is moot.

Insofar as the ZAC comments received from reviewing agencies, the adjustment to the parking area satisfies the comments from Development Plans Review and likewise addresses certain of the concerns from the State Highway Administration. As to DEPRM, they do not object to the proposed uses, but for the issues relating to the septic system and the meat processing facility. As noted above, I will defer that issue for DEPRM's consideration and although I will approve the meat processing operation from a zoning perspective, its ultimate continuation will be subject to the approval of DEPRM based upon the septic issues. The ZAC comment from the Office of Planning was supportive of the request. As noted therein, this is a historic community and the retention of the existing buildings fits well within the Maryland Line community. Mr. Slaysman has agreed to remove the freestanding sign on the front of the property which was requested by the Office of Planning's Ms. Bialek. That freestanding sign

advertising the meat processing facility will be removed and any further signage shall comply with B.C.Z.R. Section 450.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions held, and for the reasons set forth above, the requested relief shall be GRANTED.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 28<sup>th</sup> day of April 2009, that the Petition for Special Hearing seeking approval from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: A modified parking plan as shown on the Petitioners' site plan pursuant to Section 409.12; The continued use of the rear building as a zoning use division line(s) as shown on the plan pursuant to B.C.Z.R. Section 102.2; the front, rear and side yard setbacks to remain un-landscaped and in their current state pursuant to B.C.Z.R. Section 259.3.C.3(a); the gross floor area on the first floor and the gross floor area to be calculated as shown on the plan pursuant to B.C.Z.R. Section 259.3.C.1(a); to confirm that the Petitioner, Randy Slaysman's, proposed use and operation, is permitted under the Business Major Use regulations pursuant to B.C.Z.R. Section 233.1; a historic residential structure to remain attached by a covered walkway to a commercial building, and to approve the existing landscaping shown on Petitioners' Exhibit 1 may remain.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief: **(1)** to allow Existing Building 1 – to have an existing front yard setback to the property line of 0 feet in lieu of the required 15 feet and an existing side yard setback to the property line of 8.3 feet in lieu of the required 15 feet pursuant to B.C.Z.R. Section 259.3.C.2; **(2)** for Existing Building 2 - to maintain a front yard setback to a zoning division line of 13.6 feet in lieu of the required 15 feet, an existing side yard setback to a property line of 7.6 feet in lieu of the required 15 feet and an existing rear yard setback to a property line of 5.6 feet in lieu of the required 15 feet pursuant to

B.C.Z.R. Section 259.3.C.2; (3) a floor area ratio for Use Area 1 (as shown on Petitioners' site plan) of 0.38 in lieu of the required 0.2 pursuant to B.C.Z.R. Section 259.3.C.1(b); (4) a floor area ratio for Use Area 2 (as shown on Petitioners' site plan) of 0.33 in lieu of the required 0.2 pursuant to B.C.Z.R. Section 259.3.C.1(b); (5) all of the parking area to remain impervious in lieu of the required 7% pervious surface area pursuant to B.C.Z.R. Section 259.3.C.3(b), and (6) to allow no trees per eight (8) parking spaces in lieu of the required one tree per eight (8) spaces pursuant to B.C.Z.R. Section 259.3.C.3(b), all in accordance with the amended redlined site plan (Exhibit 1), be and is hereby GRANTED, subject to the following conditions:

1. The Petitioners are hereby made aware at this time is at their own risk until the 30-day appeal period from the date of 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. Petitioners shall comply with the Zoning Advisory Committee (ZAC) comments received from the Department of Environmental Protection and Resource Management (DEPRM) prior to continuing the seasonal meat processing operation on the rear portion of the property and as to whether this use can continue this determination will be at the discretion of DEPRM.

IT IS FURTHER ORDERED that the portion of the Petition for Special Hearing filed, in the alternative, seeking an interpretation that the retention of the existing non-conforming structures while changing the underlying non-conforming use pursuant to B.C.Z.R. Section 104, be and is hereby DISMISSED AS MOOT.

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

\_\_\_\_\_SIGNED\_\_\_\_\_  
WILLIAM J. WISEMAN, III  
Zoning Commissioner  
for Baltimore County