

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
SE side of Belfast Road, 2450 feet E of		
Joyce Lane	*	DEPUTY ZONING
8 th Election District		
3 rd Councilmanic District	*	COMMISSIONER
(2003 Belfast Road)		
	*	FOR BALTIMORE COUNTY
Harry and Marian Randall		
<i>Petitioners</i>	*	
Douglas Hamilton		
<i>Contract Purchaser</i>	*	Case No. 2009-0215-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by Harry and Marian Randall, the legal property owners, and Douglas Hamilton, the contract purchaser. Special Hearing relief is requested in accordance with Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow the non-density transfer of a R.C.2 zoned 9.96 acre parcel from the Harry and Marian Randall property to the adjacent Douglas and Tsogni Hamilton property. The subject property and requested relief are more fully described on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the requested special hearing relief was Petitioner Marian Randall and the contract purchaser, Douglas Hamilton. Also appearing in support of the requested relief was Bruce Doak, Petitioner's land use consultant and surveyor with Gerhold Cross & Etzel, Ltd., who prepared the site plan. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence offered revealed that Petitioners own a large tract of land that is irregular in shape and contains approximately 55.226 acres, zoned R.C.2. The property is

located on the southeast side of Belfast Road, north of Western Run Road and east of Falls Road in the Butler area of northern Baltimore County. Petitioners' property actually consists of three deeded properties, all located contiguous to one another. As shown on the site plan, the property outlined in "blue" consists of 13.841 acres and the property outlined in "green" consists of 3.904 acres. These properties have a mix of cleared and wooded areas and appear to be largely unimproved. The property outlined in "orange" consists of 37.481 acres and is improved with Petitioners' two-story single-family residence and a one-story garage building.

Adjacent to Petitioners' property immediately to the south is Mr. Hamilton's property, with access on Western Run Road. His property is outlined in "yellow" on the site plan and consists of 34.731 acres. His property is mostly cleared, though there is a wooded area that runs along the east side of the property. There is also a pond located near the center of his property. His property is improved with a one-story dwelling, a one-story garage building, and a two-story dwelling that is the primary residence.

As indicated above and shown on the site plan, Petitioners and Mr. Hamilton are neighbors on these significant tracts of land. Mr. Hamilton has owned his property for 10 years and has resided there for the last four years. Petitioners have owned their property since 1970 and have lived there since 1972. As the site plan depicts, the area of improvements where Mr. Hamilton's home is located backs up fairly close to Petitioners' property. As the parties indicated, they are very good neighbors with one another, however, Mr. Hamilton is concerned with his "backyard" in the event Petitioners may eventually sell their property. Without knowing the intentions of any subsequent owners, Mr. Hamilton is concerned in the event future development is sought for Petitioners' property. In short, Mr. Hamilton would like to have a built-in buffer between his property and Petitioners' property.

The parties have discussed the situation and in order to address this issue, Petitioners have agreed to convey a 9.96 acre piece of the southern areas of their property to Mr. Hamilton. This area is depicted on the site plan in a “pink” outline. In effect, this area would become the northern property line of Mr. Hamilton and would provide him with the buffer he desires. In order to do so, Petitioners have filed the instant special hearing to request a non-density transfer of the 9.96 acres to Mr. Hamilton.

In support of the request, Mr. Doak submitted an aerial photograph that was marked and accepted into evidence as Petitioners’ Exhibit 2. The photograph gives a visual perspective of the properties depicted on the site plan. In particular, it shows the wooded area, as well as a small tributary, running along the east side of Mr. Hamilton’s property, and also shows the heavily wooded area between the parties’ properties (specifically the area that is the subject of the non-density transfer). Mr. Doak also commented that the 9.96 acre subject area is relatively unusable in any respect due to its dense forest and its steep slopes, as indicated by the topographical lines on the site plan. For this reason, the non-density transfer of this land in order for it to become a desired natural buffer between the properties makes sense. The conveyance is not for the purpose of transferring any density, but merely to provide Mr. Hamilton with additional land and to establish a new property line between these respective neighbors, consistent with the use and topographical features of these parcels. He also emphasized that there would be no disturbance or re-grading of the land.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition to the requested relief, except the comment received from the Department of Environmental Protection and Resource Management dated April 22, 2009 indicates that the property must comply with the Regulations for the

Protection of Water Quality, Streams, Wetlands and Floodplains. The property must also comply with the Forest Conservation Regulations.

Considering of all the testimony and evidence presented, I am persuaded to grant the special hearing relief. Clearly, there will be no detrimental impact to any adjacent property owners. Moreover, as noted above, there is no density or rights of subdivision being conveyed. Thus, there will be no alteration of the existing property rights of these owners. Hence, in my view the special hearing should be granted.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered, I find that Petitioners' request for special hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 7th day of May, 2009 that Petitioners' request for Special Hearing relief filed in accordance with Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow the non-density transfer of a R.C.2 zoned 9.96 acre parcel from the Harry and Marian Randall property to the adjacent Douglas and Tsogni Hamilton property, be and is hereby GRANTED, subject to the following:

1. Petitioners may apply for permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from 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. Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).
3. Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

4. Within one hundred twenty (120) days of the date of this Order, new deeds shall be recorded among the Land Records of Baltimore County referencing this case and incorporating the conditions and/or restrictions of this Order.
5. When applying for any permits, the site plan filed must reference this case and set forth and the address the conditions and/or restrictions of this Order

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

____SIGNED_____
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz