

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
W/S Windy Hill Road, 1,500' S of c/line		
Liberty Road (MD Rte. 26)	*	ZONING COMMISSIONER
(Estates at Windy Hill -		
aka 4301 Windy Hill Road)	*	FOR
2 nd Election District		
4 th Council District	*	BALTIMORE COUNTY
Namdi C. Iwuoha, et ux	*	Case No. 2010-0227-SPH
Petitioners		

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the property, Namdi Iwuoha and his wife, Gail Iwuoha. The Petitioners request a special hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve a waiver from Section VIII.D.3 of the Baltimore County Department of Permits and Development Management, Bureau of Development Plans Review Policy Manual, (February 27, 2002) and the Development Regulations contained in Sections 32-4-107 and 32-4-409 of the Baltimore County Code (B.C.C.) to permit the existing 12 foot paving width of Windy Hill Road to remain in lieu of the required 16 feet.¹ The subject property and requested relief are more fully particularly described on the site plan submitted, which was accepted into evidence and marked as Petitioners’ Exhibit 1.

Appearing at the requisite public hearing in support of the requested waiver of standards was Namdi Iwuoha, property owner, and Thomas J. Hoff, the registered Landscape Architect and zoning consultant, with Thomas J. Hoff, Inc., who prepared the site plan for this property. Also

¹ As the Zoning Advisory Committee (ZAC) comment received from the Bureau of Development Plans Review (DPR) reveals, they determine under their General Standards contained in their Plans Review Policy Manual and the Life Safety Code that 16 feet is the required width for the driveway.

attending in support of Petitioners request were many of the residents and owners of the eighteen (18) single-family dwellings in the 4300 and 4400 blocks of Windy Hill Road; namely: Janis and Dorothy L. Miller, Arnold D. and Mary C. Gries, Joseph E. Norman, Ryan L. Welkner, Tiye S. Mulazim, and Leona Garner Gibson, on behalf of her mother, Elizabeth E. Gardner, who has resided at the southwest corner of Liberty Road and Windy Hill Road for the past 59 years. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is an irregularly shaped (long and narrow) parcel at the end of Windy Hill Road and contains approximately 18.87 acres of land zoned R.C.5. The property is predominantly wooded and located on the west side of Windy Hill Road some 1,500 feet southwest of Liberty Road in the Harrisonville/Randallstown area of the County. As the site plan demonstrates, the property is divided into five (5) lots; however, only three (3) new lots are proposed – Lots 2, 3 and 4. The home existing on Lot 5, known as 4300 Windy Hill Road and owned by James R. and Diane L. Marxen was subdivided out years ago and is being shown for density purposes only and is not part of the development to be known as the Estates of Windy Hill (PDM No. II-746). It is also to be noted that Lot 1 was the subject of a Landmarks Preservation Commission (LPC) hearing on October 16, 2008 wherein the LPC approved the request for demolition of the “Watters House” Final Landmarks List No. 334. The structure has since been razed. Petitioners are not requesting any variance relief for the proposed construction of new dwellings on Lots 1, 2, 3 and 4 but are solely seeking approval for the existing 12 foot paving width of Windy Hill Road to remain for ingress and egress in lieu of the required 16 feet. Windy Hill Road will primarily serve the properties designated on the site plan. The owners of these properties gave a detailed history concerning the use of the road and described their community as a friendly and peaceful

place that benefits the “country serenity” and the convenience of “county services”. The residents using Windy Hill Road yield to oncoming traffic on this one-lane 50+ year old road by pulling into bypasses and widened driveways as needed to keep traffic moving. Ms. Miller stated the Bureau of Solid Waste Management schedules trash pickups in the early morning hours to assure sanitation worker safety and to avoid blocking the roadway. Ms. Mulazim stated the road width was sufficient to allow emergency vehicles to pass other vehicles. She testified as to her personal experience having passed an ambulance responding to a neighbor’s home on December 5th when a guest had become ill during an evening party. The neighbors would welcome new residents and a cul-de-sac at 4301 Windy Hill Road that would create a turn-about and make it easier for County services such as trash removal, snow removal, etc. They do not feel that four (4) new homes at the end of this cul-de-sac would create any additional traffic problems. Photographs were submitted denoting various bypasses that allow pull offs. Each testified as to their opposition to street widening. They point out that while the County maintains the road, it does not own the right-of-way. Widening would take away the uniqueness of what they described as a secure quiet friendly neighborhood. The widening would create problems for homeowners with loss of parking pads, carports, mailboxes, fencing and nine (9) electric poles would need to be relocated. The Marxen’s wrote to Darryl Putty, the project manager, and stated:

“Not only would this forever damage the semi-rural, country lane look of the neighborhood, but it is quite unnecessary once the cul-de-sac is in place . . .”.

In short, the residents do not want the road widened, as it would destroy years of carefully maintained lawns and landscaping.

In an effort to assist the undersigned, Mr. Hoff marked as Petitioners’ Exhibit 3 a detail of existing driveways used as pull-over lanes at strategic locations. Leona Gibson, who has

Power of Attorney for her mother Elizabeth Gardner, indicated a willingness to provide land for road widening where Windy Hill Road meets Liberty Road. She indicated that a 5' wide strip x 125' long would provide for a safer ingress and egress from Liberty Road into Windy Hill as this would provide for two-way movement in this area for vehicles to pass each other and alleviate existing traffic safety concerns.

In view of Ms. Gibson's generous offer presented during the public hearing and the ZAC comments that were received by Mr. Hoff and the Petitioner on the morning of the hearing, the undersigned advised all parties present that the record of the case would be held open for a period of two (2) months to allow for further discussions and dialogue with the County's Bureau of Development Plans Review and the Fire Department to resolve some of the current concerns that had been put forward at the hearing. Subsequently, on June 10, 2010, Thomas Hoff presented a revised site plan and a set of photographs prepared to address the improvements suggested by Dennis Kennedy regarding street widening and/or pull-over lanes at strategic locations. The revised plan (and photographs) accepted as Petitioners' Exhibit 5 illustrate six (6) driveway entrances onto Windy Hill Road that are 16' x 28' wide and used to provide adequate "bypass areas" or pull-over lanes for vehicles traveling on Windy Hill Road. As illustrated, the spacing of these bypass areas are approximately 250 feet apart.

With respect to street widening, emergency vehicle access and trash pick-up, Mr. Hoff met with Steven L. Makowski (Solid Waste Management), Lt. Roland Bosley (Fire Marshal's Office) and Leona Gibson (Attorney-in-fact for her mother Elizabeth E. Gardner and property owner – 10201 Liberty Road). He presented the details of these discussions which I will briefly recap as follows:

- Steven Makowski of the Bureau of Solid Waste Management stated that the need for wider paving was not as important as having an adequate

turnaround at the end of Windy Hill Road for trash trucks. He stated that leaving the paving width as it is and providing a standard cul-de-sac at the end of the road was satisfactory for solid waste management.

- Lt. Bosley, Fire Department, discussed the adequacy of Windy Hill Road for fire and other emergency vehicles. He reviewed the new plan with his superiors and the decision was that they had no comments on the width of Windy Hill Road. He was in favor of the proposed cul-de-sac.
- Mr. Hoff and Namdi Iwuoha met with Leona Gibson concerning the widening of Windy Hill Road along the frontage of the Elizabeth Gardner property at 10201 Liberty Road. She agreed to allow Petitioners to widen the paving (of Windy Hill Road) by five feet, more or less, on her mother's property along the frontage from the intersection with Liberty Road to the existing driveway, as shown on Exhibit 5.

Under the circumstances, I will grant the zoning relief necessary to allow the subdivision of the Estates of Windy Hill (PDM No. 11-746) to proceed with the proposed development of three (3) new lots – (Lots 2, 3 and 4), subject to conditions that will assure public safety. Based on the testimony and evidence presented at the hearing, the accommodations being made by neighboring residents along Windy Hill Road and the legitimate efforts to acquire property in order to meet the Development Plans Review Policy Manual requirements, I find the revised plan provides a practical solution. The request can be granted in the spirit and intent of the B.C.Z.R. and Development Regulations. There is sufficient justification as described above for the petition and pursuant to B.C.C. Section 32-4-107(a), the waiver is hereby allowed.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED, by the Zoning Commissioner for Baltimore County this 11th day of June 2010, that the Petition for Special Hearing seeking approval of a waiver pursuant to Sections 32-4-107 and 32-4-409 of the Baltimore County Code (B.C.C.) namely, the “General Design Standards and Requirements, specifically Section VIII.D.3 of the Baltimore

County Department of Permits and Development Management, Bureau of Development Plans Review Policy Manual, (February 27, 2002) to permit the existing paving width of 12 foot to remain in Windy Hill Road in lieu of the required 16 feet, in accordance with Petitioners' Exhibit 5, be and is hereby GRANTED, subject to the following conditions:

1. Petitioner shall pave that portion of the Gardner property (5' wide x 125' long) that will widen the ingress and egress of Windy Hill Road allowing for free flow of traffic in this area.
2. The proposed cul-de-sac shown on the north side of Lot 1 at the terminus of Windy Hill Road will be constructed and deeded to the County assuring the Bureau of Solid Waste Management, Fire Department and other users with a turnaround that meets the public works standards.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the Baltimore County Code.

WJW:dlw

SIGNED
WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County