

IN RE: PETITION FOR SPECIAL HEARING

SW side of Black Rock Road, 2,793 feet SE
of the c/l Benson Mill Road
6th Election District
3rd Councilmanic District
(3317 Black Rock Road)

Jocelyn E. Simcock and Jacqueline D. Simcock
Petitioners

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **CASE NO. 2011-0185-SPH**

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ORDER

This matter comes before this Administrative Law Judge as a Petition for Special Hearing filed by the legal owners of the subject property, Jocelyn E. Simcock and Jacqueline D. Simcock. The Special Hearing request involves property located at 3317 Black Rock Road which property is zoned R.C. 2 and is located in the northern area of Baltimore County. The Petitioners' Special Hearing request is pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit septic reserve area for proposed Lot 3 to be situated on the adjoining parcel of record other than that of the proposed dwelling and a portion of the septic reserve area for proposed Lot 1 to be situated on the adjoining parcel of record other than that of the proposed dwelling in order to create a three lot minor subdivision from combined density of the two adjoining parcels.

Appearing at the public hearing in support of the requested special hearing relief were the owners of the property, Jocelyn E. Simcock and Jacqueline D. Simcock and Bruce E. Doak with Gerhold Cross & Etzel, Ltd., the professional land surveyor who prepared the site plan. Also attending the hearing were Teresa Moore with the Valleys Planning Counsel and two representatives from Baltimore County Department of Environmental Protection and

Sustainability, David Lykens and Wally Lippincott. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence offered at the hearing and the site plan submitted into evidence as Petitioners' Exhibit 2 demonstrated that the property which is the subject of this Special Hearing request, consists of two separate parcels one of which contains 8.645 acres and the other containing a gross area of 34.092 acres. The owners of the property have engaged Mr. Doak to take this property through the minor subdivision process in order to eventually create three building lots. Petitioners' Exhibit 1 entered into evidence depicts the ultimate design and layout of these three lots should the minor subdivision be approved by the Baltimore County reviewing agencies. It should also be noted that once the minor subdivision plan is approved, all lots created by that subdivision plan will contain their own septic reserve area and well. However, at this time the manner by which the improvements on these lots are shown, causes some of the septic reserve area to be located on a lot other than that of the proposed dwelling. Hence, the reason for the Special Hearing request.

The testimony revealed that the Simcocks have been involved with this property their entire lives having inherited the subject land from their father. They are desirous of selling the existing home on the property and creating two additional unimproved lots whereupon each would build their own single family dwelling. In order to create these two new lots, a minor subdivision plan must be approved by Baltimore County. As stated previously, this Special Hearing request is somewhat temporary in nature in that ultimately each of these lots will contain their own septic system and well. However, at this time the Special Hearing request is being made to approve the configuration of these improvements as shown on Petitioners' Exhibit 1.

Representatives from the Department of Environmental Protection and Sustainability (DEPS) appeared and testified at the hearing. Mr. Lykens testified that he has no objection to the Petitioners' proposal to develop their property so long as they ultimately have a minor subdivision plan approved. The adverse comments raised by DEPS will be remedied and cured by this minor subdivision plan. Therefore, Mr. Lykens had no objection to the approval of the Special Hearing request so long as the minor subdivision continues on its track to ultimate approval.

Mr. Lippincott, also representing DEPS, testified that the Petitioners should place Lot 1 into the Rural Legacy Conservation Program. Mr. Doak indicated that his clients have no objection to placing Lot 1 once the minor subdivision plan is approved and conveying same into the Piney Run Watershed Rural Legacy Program or the Land Preservation Trust. Mr. Lippincott indicated that he would not be opposed to the Petitioners Special Hearing request given assurances that the property would be conveyed into this Trust.

The Zoning Advisory Committee (ZAC) comments were received and are contained within the case file. Comments from the Department of Environmental Protection and Sustainability (DEPS) dated January 27, 2011, indicate that development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains and must comply with the Forest Conservation Regulations. The septic reserve area (and well) must be on the same lot as the dwelling (for each lot). The project must go through the minor subdivision process in order to have the property lines changed to accommodate this. Comments were received from the Office of Planning dated January 5, 2011, indicate their concurrence with the DEPS' comment that the septic reserve area must be on the same lot as the dwelling and that this project must go through the minor subdivision process to reconfigure the two lots of record for this purpose. It should also be noted that this would result in the development of two additional

lots on a property that is located in the Piney Run Rural Legacy Area and is designated in the Master Plan as an Agricultural Land Preservation Area. Both the State and the County have used significant funds to preserve land for the benefit of agriculture.

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

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 8th day of February, 2011 that Petitioners' request for Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit septic reserve area for proposed Lot 3 to be situated on the adjoining parcel of record other than that of the proposed dwelling and a portion of the septic reserve area for proposed Lot 1 to be situated on the adjoining parcel of record other than that of the proposed dwelling in order to create a three lot minor subdivision from combined density of the two adjoining parcels be and is hereby GRANTED, subject to the following conditions and restrictions:

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. The approval of the Special Hearing request is somewhat temporary in nature in that the Petitioners have filed and are seeking approval of a minor subdivision plan through the Baltimore County reviewing agencies. Once approved, the minor subdivision plan will cure the need for the Special Hearing relief requested herein. Therefore, the granting of this Special Hearing shall be contingent upon the Petitioners and Mr. Doak seeking ultimate approval of a minor subdivision plan which shall be recorded in the Land Records for Baltimore County. No such building permits shall be issued for any home to be constructed on Lot 2 and Lot 3 until such time as assurances are given that the septic reserve areas for those lots are contained entirely within their respective lot lines.

3. Once the minor subdivision for these parcels is approved, the Petitioners shall be required to convey and place Lot 1 into either the Piney Run Watershed Rural Conservation Easement or the Land Preservation Trust. The deed of conveyance placing Lot 1 into either of the identified conservancies shall occur within 90 days from the date of the final approval of the minor subdivision plan.

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

 SIGNED
TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/pz