

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(Jarrettsville Pike)</b>		
10 <sup>th</sup> Election District	*	OFFICE OF ADMINISTRATIVE
3 <sup>rd</sup> Councilmanic District		
Howard B. Lintz	*	HEARINGS FOR
Petitioner		
	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2013-0227-SPH</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Special Hearing filed by Jeffrey H. Gray, Esquire on behalf of Howard B. Lintz, legal owner. The Petitioner is requesting Special Hearing relief pursuant to § 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve: (1) well and septic not located in the same zone as house, and (2) two existing two-story dwellings and an existing separate one-story garage with an office on Lot 1. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing held for this case was Howard B. Lintz and Keith Heindel, the surveyor who prepared the site plan. In addition, two former neighbors attended the hearing and testified. Jeffrey H. Gray, Esquire, appeared and represented the Petitioner. There were no Protestants or interested citizens in attendance, and the file does not contain any letters of protest or opposition. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

No substantive Zoning Advisory Committee (ZAC) comments were received from any County agency.

Testimony and evidence revealed that the subject property is approximately 4.038 acres

and is split- zoned RC 5, RO-CR, and RC5-CR. The property is improved with two single family dwellings and a one-story office/garage building. The Petitioner is in the process of obtaining minor subdivision approval from Baltimore County, to divide the parcel into two lots, with a proposed single family dwelling to be constructed on the newly-created lot ("Lot 2"). Before the minor subdivision can be processed, the Petitioner must obtain Special Hearing relief to establish that the three (3) structures currently existing on proposed "Lot 1" are lawful nonconforming buildings under B.C.Z.R. §104.

With regard to the first aspect of Special Hearing relief requested, I was unable to locate any provision in the B.C.Z.R. that required a well/septic to be located within the same zoning designation as the principal building to which it is accessory. In any event, Petitioner's counsel indicated that Baltimore County recently approved the well & septic systems for proposed "Lot 1" as depicted on the site plan (Exhibit 1). As such, relief will be granted as to this issue.

The remaining issue concerns whether the structures on lot 1 are lawful nonconforming buildings under the B.C.Z.R. The SDAT printout in the file reveals that one of the single family dwellings (#14345 Jarrettsville Pike) was constructed in or about 1880. The Petitioner presented two witnesses (Ted Ohler & Carl Unkart), both of whom were born and raised in the vicinity of the subject property. They both recall the single family dwellings and the garage building since at least 1945, when they were young children playing in the area. Howard Lintz, the Petitioner, also grew up on the property and he confirmed the testimony and recollection of the other two witnesses.

In these circumstances, the Petitioner has established that the structures existing on Lot 1 of the site plan predated the enactment of the zoning regulations that would otherwise prohibit the construction of two single family dwellings on the same lot. The buildings have been in use

continuously, and there is no evidence or indication that they were abandoned for a period of one year or more. As such, the requested relief will be granted.

Pursuant to the advertisement, posting of the property, and public hearing, and after considering the testimony and evidence offered, I find that Petitioner's Special Hearing request should be GRANTED.

THEREFORE, IT IS ORDERED, this 5th day of June, 2013 by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve: (1) well and septic not located in the same zone as house, and (2) two existing two-story dwellings and an existing separate one-story garage with an office on Lot 1 (as shown on the site plan admitted as Petitioners Exhibit 1), be and is hereby GRANTED.

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

\_\_\_\_\_  
Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:sln