

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(Stansbury Mill Road)</b>		
10th Election District	*	OFFICE OF
3rd Council District		
Steven G. Hamilton & Maria N. Hamilton	*	ADMINISTRATIVE HEARINGS
<i>Legal Owners</i>		
	*	FOR BALTIMORE COUNTY
<b>Petitioners</b>		
	*	<b>Case No. 2020-0198-SPH</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Special Hearing filed by Steven G. Hamilton and Maria N. Hamilton (the “Petitioners”) for a vacant lot located on Stansbury Mill Road (the “Property”). The Special Hearing was filed pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 500.7 to approve a non-conforming lot which was created on September 30, 1966 with an area of 0.92 of an acre in lieu of the required area of 1.0 acre.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. The Petitioners appeared at the hearing along with Bruce E. Doak, surveyor, of Bruce E. Doak Consulting, LLC who prepared a site plan (the “Site Plan”). (Pet. Ex. 1). Neighbors, Rebecca Byers, Mary Roppelt and Libby Nodar testified in opposition at the hearing.

A Zoning Advisory Committee (“ZAC”) comment was received from Department of Environmental Protection and Sustainability (“DEPS”) who did not oppose the requested relief. Another ZAC comment was received from the Department of Planning (“DOP”) who also did not oppose the requested relief.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Mr. Doak testified that the Property is approximately 0.92 acres and is zoned resource-conservation (RC 2). (Pet. Ex. 2, 4). It is on the north side of Stansbury Mill Rd., is vacant and has been owned by the Petitioners since 1988. The Petitioners also own and live at the adjacent property at 4008 Stansbury Mill Rd. (Pet. Ex. 5).

On September 30, 1966, a lot was created by the Bennett family by recording a deed in the Land Records of Baltimore County at liber 4681, folio 130 (the "Lot"). (Pet. Ex. 3). The Bennett family originally owned 7 acres in total and deeded lots to family members. The Petitioners presently own 3.6 of those 7 acres. The Petitioners intend to either move into the home to be built on the Lot or to sell it.

Through a series of photographs, Mr. Doak described the neighborhood. Stansbury Mill Rd. is small in width and is not heavily travelled. The style of homes surrounding the Property consist of farm houses, ranchers and Cape Cod homes. While the Lot is less than the one acre required under BCZR, §1A01.3.B.2, an aerial photo revealed that neighboring homes exist on lots with less than one acre and most are one-half (½) acre. (Pet. Ex. 8). A plat was recorded in the Land Records of Baltimore County on April 21, 1953 in which each of the lots depicted are one-half (½) acre lots. (Pet. Ex. 9).

With regard to this Lot, in 1986, it passed a perc test. (Pet. 7). Mr. Doak testified that it is a buildable lot which meets all of the setbacks for a house. (Pet. Ex. 1). At the time this Lot was created in 1966, the zoning was "A-Residential" in which the minimum lot size was 5,000 sf or smaller. It was not until 1967 that the zoning was changed to RDP and the minimum lot size was changed to 1 acre. In 1975, with the creation of the RC zone, the 1 acre minimum was adopted.

Rebecca Byers, 3942 Stansbury Mill Rd. testified that she just moved into her home in July of 2020. Since 1986 when the Lot was perked, a new well was dug on her property. She is concerned that a well drilled for the proposed home will negatively impact her well. Ms. Byers testified that the Petitioners should be required to obtain a new perc test. She is also concerned about water run-off from a new home caused by grading or otherwise.

Mary Roppelt, 3943 Stansbury Mill Rd. has lived across from the Property for 20 years. Ms. Roppelt is equally concerned that an additional well for the proposed home will negatively affect her older well which, in turn, will require her to incur expense in digging a deeper well. Libby Nodar, 3940 Stansbury Mill Rd. was concerned about the impact of the new well on her septic drain fields and reiterated that the Petitioners should be required to obtain a new perc test.

The issue before me is whether a lot created in 1966 with an acreage of 0.92 in lieu of the current 1 acre required under BCZR, §1A01.3.B.2 should be approved. The Petitioners satisfied their burden of proof by the devolution of title (Pet. Ex. 3) which reveals that the Lot was legally created under the A-Residential zoning classification on September 30, 1966 by recording a deed in the Land Records of Baltimore County (4681, 130). Accordingly, the Petitioners are not creating a new lot in contravention of BCZR, §1A01.3.B.2; the Lot already existed.

THEREFORE, IT IS ORDERED this 8<sup>th</sup> day of **December, 2020** by this Administrative Law Judge, that the Petition for Special Hearing seeking relief from the BCZR § 500.7 to approve a non-conforming lot which was created on September 30, 1966 with an area of 0.92 of an acre in lieu of the required area of 1.0 acre be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would

be required to return the subject property to its original condition.

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

Signed \_\_\_\_\_  
MAUREEN E. MURPHY  
Administrative Law Judge  
for Baltimore County

MEM/dlm