

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(4005 Briar Point Road)		
15th Election District	*	OFFICE OF
6th Council District		
Catherine Ann Orzolek/Noreen Honeycutt	*	ADMINISTRATIVE HEARINGS
<i>Legal Owners</i>		
	*	FOR BALTIMORE COUNTY
Petitioners		
	*	Case No. 2020-0133-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Special Hearing filed by Catherine Ann Orzolek and Noreen Honeycutt. The Special Hearing was filed pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 1A01.3.B.1 to confirm that this RC 5 property of a single ownership, crossed by an existing road, right-of-way or easement can be considered as two (2) separate lots of record.

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. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

The property is located within the Chesapeake Bay Critical Area (“CBCA”) and is subject to Critical Area requirements as noted in the ZAC comment dated June 17, 2020 submitted by the Department of Environmental Protection and Sustainability (“DEPS”). A ZAC comment was also received from the Department of Planning (“DOP”) which did not oppose the requested relief.

The property owners/petitioners, Catherine Ann Orzolek and Noreen Honeycutt appeared. J. Scott Dallas, the surveyor who prepared the site plan, assisted with the presentation of the case. An adjoining property owner, Mark Roush, also testified but does not oppose the requested relief, subject to a condition that will be incorporated into the Order.

The subject property is approximately 3.68 acres and is zoned RC 5. Mr. Dallas testified that it is presently deeded as one parcel. It is bifurcated by Briar Point Road. The portion of the property on the south side of the road is 1.218 acres and on it is a residence that was built in 1959, prior to the present RC 5 zoning designation. The portion on the north side of the road is 1.936 acres. The north portion has frontage on a tributary of Seneca Creek and the south portion fronts on the Chesapeake Bay. The parcel lies entirely within the Chesapeake Bay Critical Area and within a 100 year tidal floodplain.

Ms. Honeycutt testified that the petitioners inherited the property from their father/father in law, Joseph Orzolek. The residence is currently occupied by Ms. Orzolek's son. She explained that there are no current plans to develop the north portion but that she and her sister-in-law, Catherine Orzolek, wish to create two parcels for estate planning purposes. She understands that any building plans would need to conform to the CBCA and floodplain regulations.

Mr. Roush testified that he owns the adjoining property to the west of the north portion of the subject property. He has plans to construct a pier and is concerned that if another pier were built off of the north portion of the subject property that it would impact his ability to build a pier from his property. That is the only concern he has and does not otherwise object to the requested relief. Ms. Honeycutt testified that the petitioners have no problem agreeing to this proposed restriction as a condition of the relief being granted.

Pursuant to BCZR § 1A01.3.B.1.b.1, the owner of a single lot of record that was in existence prior to September 2, 2003, can be granted special hearing relief from the minimum acreage requirements of BCZR § 1A01.3.B.1.a. Based on the record evidence I find that the requested relief can be granted within the spirit and intent of the BCZR and without causing harm to the public health, safety, or welfare. I note that the combined acreage of the parcel exceeds the

minimum 3 acres for two parcels. Indeed, if the existing public road bisected the property a little further north, then the special relief would not even be required because the newly created parcel to the south of the road would meet the 1.5 acre requirement. Further, any environmental impacts caused by future residential development of the newly created northern parcel will be addressed by the relevant County agencies during the building permit and inspection process.

THEREFORE, IT IS ORDERED this 14th day of **October, 2020** by this Administrative Law Judge, that the Petition for Special Hearing seeking relief from the BCZR § 1A01.3.B.1 to confirm that this RC 5 property of a single ownership, crossed by an existing road, right-of-way or easement can be considered as two (2) separate lots of record be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is 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, Petitioner would be required to return the subject property to its original condition.
- The property is subject to certain environmental regulations as noted in the ZAC comment, dated June 17, 2020, submitted by the Department of Environmental Protection and Sustainability (DEPS). A copy of which is attached hereto and made a part hereof.
- No additional pier shall be permitted on the north parcel.

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

Signed
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM/dlm