

11-16-94

PETITION OF GEORGE S. BECK	*	IN THE
GEORGE R. BECK	*	
13240 Fork Road	*	CIRCUIT COURT
Baldwin, Maryland 21013	*	
	*	FOR
FOR JUDICIAL REVIEW OF THE	*	
DECISION OF THE COUNTY BOARD	*	BALTIMORE COUNTY
OF APPEALS OF BALTIMORE COUNTY	*	
	*	Civil Action
	*	No: 94-CV-07650/89/134
IN THE MATTER OF	*	
THE ESTATE OF RITA S. HOLLAND/	*	
ELIZABETH HENDRICKSON, PR	*	
FOR A SPECIAL HEARING ON	*	
PROPERTY LOCATED ON THE WEST	*	
SIDE OF FORK ROAD, 400' S OF	*	
BOTTOM ROAD (13224 FORK ROAD)	*	
11TH ELECTION DISTRICT	*	
6TH COUNCILMANIC DISTRICT	*	
CASE NO. 94-139-SPH	*	
*	*	*

MEMORANDUM OF GEORGE S. BECK AND GEORGE R. BECK
IN SUPPORT OF APPEAL

George S. Beck and George R. Beck, Appellants, by their attorney, Mark P. Hanley, Jr., pursuant to Maryland Rule 7-207, submit this memorandum in support of their appeal.

STATEMENT OF THE CASE

The issue involved in this matter is whether or not a density unit for the construction of a residential dwelling passed by Deed from the Decedent, Rita S. Holland, to the Appellants herein.

QUESTIONS PRESENTED FOR REVIEW

1. DID THE APPELLANTS HEREIN ACQUIRE BY DEED DATED DECEMBER 10, 1983 CONTAINING 1.09 ACRES OF GROUND A LOT OF GROUND WITH A DENSITY UNIT WHICH WOULD HAVE GRANTED TO THEM THE RIGHT TO CONSTRUCT A DWELLING UPON SAID LOT OF GROUND?

2. DID THE COUNTY BOARD OF APPEALS ERROR IN DENYING APPELLANTS RIGHT TO THE DENSITY UNIT AS AN EXCEPTION TO THE SUBDIVISION RULE ESTABLISHED UNDER SECTION 26-170 OF THE COUNTY CODE?

3. DID THE COUNTY BOARD OF APPEALS ERROR IN REFUSING TO GRANT THE APPELLANTS RIGHT TO A DENSITY UNIT IN ACCORDANCE WITH THE BALTIMORE COUNTY CODE UNDER THE RC2 ZONE WHEREIN THE DECEDENT, RITA S. HOLLAND WAS PERMITTED TO DEED OFF ONE (1) LOT WHICH WOULD HAVE BEEN EXEMPTED UNDER THE AFOREMENTIONED SECTION 26-170 OF SAID CODE AND IN TOTAL COMPLIANCE WITH THE APPLICABLE ZONING REGULATIONS?

4. DID THE COUNTY BOARD OF APPEALS ERROR IN THEIR DECISION WHICH BASICALLY DENIED THE APPELLANTS RIGHT TO A DENSITY UNIT UNDER THE DEED OF DECEMBER 10, 1983 BY BASING THEIR DECISION ON THE ALLEGATION THAT THE INTENTIONS OF THE DECEDENT, RITA S. HOLLAND, AND THE PURCHASER WERE NOT EXPRESSED IN THE DEED BETWEEN THE PARTIES CONCERNING THE DENSITY UNIT?

5. DID THE COUNTY BOARD OF APPEALS ERROR IN DENYING TO THE APPELLANTS THE OPPORTUNITY TO TESTIFY AS TO THE INTENTIONS OF THE PARTIES CONCERNING THE CONVEYANCE OF DECEMBER 10, 1983?

STATEMENT OF FACTS

1. That in December of 1983 the subject parcel was zoned RC2 (TL-46) which was owned by Rita S. Holland and consisted of approximately fifteen (15) acres.

2. That on December 10, 1983 Ms. Holland agreed to convey a 1.09 acre lot to George R. Beck by Deed (TL-13-Appellee's Exhibit No. 3) and took back a mortgage in the amount of Fifteen Thousand Dollars (\$15,000.00) (TL-24, TL-32 and TL-33).

3. That in August of 1990 the subject Deed and Mortgage were recorded and George R. Beck paid the agricultural transfer penalty tax (TL-51) in the amount of Six Hundred Forty Dollars (\$640.00) (TL-34).

4. That on January 31, 1991, George R. Beck by Deed conveyed to his son, George S. Beck, the subject 1.09 acres lot in order that he have a building lot (TL-13- Appellee's Exhibit No. 4, TL-35).

5. That on February 6, 1993 the transferror, Rita S. Holland passed away (TL-19).

6. That on February 18, 1993 by formal request and payment of the Forty Dollar (\$40.00) fee (TL-50-Appellant's Exhibit "1"), George S. Beck requested of the Baltimore County Zoning Administration Office the availability of building upon the subject lot and to which request a response was issued on March 8, 1993 (TL-51- Appellant's Exhibit "2") wherein Catherine A. Milton, Planner I, issued the following (TL-39-Appellant's Exhibit "5"):

"This office has reviewed the information supplied by you in a letter dated, February 18, 1993. That information in conjunction with our research has led to the conclusion that from a zoning density perspective the lot is buildable for residential purposes."

7. That in reliance upon this response by the Zoning Office, George S. Beck proceeded to request a formal building permit from the Administrative Office, Permit Section for Baltimore County.

ARGUMENT

1. That it is the contention of the Appellant/Protestant that under Section 26-170 of the County Code titled General Exemption, there was no necessity for a formal subdivision for agricultural transfer as same is exempt under the aforementioned Section of the Agricultural Division of the Code (TL-42).

2. That Mr. James McKee of McKee & Associates testified as an expert that under the Baltimore County Code concerning RC2 zone, Rita S. Holland was permitted to Deed off one lot and same would be exempted under the aforementioned Section 26-170, subject to compliance with all applicable zoning regulations, and that a special hearing concerning same would not have been required (TL-46).

3. That the expert called on behalf of the Appellant/Protestant, namely, James McKee of McKee & Associates, testified that under County policy then in existence it was proper and sanctioned by the County to make transfers for agricultural purposes similar to the one in this case without the formality of a subdivision proceeding (TL-50, Appellant's Exhibit "6").

4. That James McKee of McKee & Associates further testified that a density unit would follow the transfer of this parcel, for if this were not the case, a special hearing for a non-density transfer would have been required (TL-50).

5. That James McKee of McKee & Associates also testified that it was customary where the first to apply (TL-61) for said permit would take precedence over any other applications for said permit which in this case would, in fact, be George S. Beck who applied first for the building permit.

CONCLUSION

On behalf of the Appellant/Protestant, the Petitioner respectfully requested that the building permit which was applied for and granted by the Baltimore County Zoning Office be allowed to stand and that the application of the Estate of Rita S. Holland be for denying this density unit be denied.

Respectfully submitted,



Mark P. Hanley, Jr.
206 Washington Avenue
P.O. Box 5506
Towson, Maryland 21204
(410) 823-1174
Attorney for Appellant/
Protestant

LAW OFFICES
HANLEY AND HANLEY
206 WASHINGTON AVENUE
P. O. BOX 5506
TOWSON, MARYLAND 21204
(410) 823-0174

DANIEL J. HANLEY
PATRICK D. HANLEY
PAUL J. HANLEY

CLAUDE A. HANLEY
(1893-1976)
FAX: (410) 823-6229

November 16, 1994

Clerk of the Court
Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

RE: PETITION OF GEORGE S. BECK AND GEORGE R. BECK
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY
BOARD OF APPEALS OF BALTIMORE COUNTY, IN THE MATTER
OF THE ESTATE OF RITA S. HOLLAND/ELIZABETH
HENDRICKSON, PR, FOR A SPECIAL HEARING ON PROPERTY
LOCATED ON THE WEST SIDE OF FORK ROAD, 400' S OF
BOTTOM ROAD (13224 Fork Road), 11th Election
District-6th Councilmanic District
Case No.: 94-139-SPH
Circuit Court Civil Action No.: 94CV07650/89/134

Dear Madam Clerk:

Enclosed herewith please find the Memorandum of George S. Beck
and George R. Beck in Support of Appeal regarding the above
captioned case. Please accept same for filing.

Thank you for your cooperation in this matter.

Very truly yours,

Mark P. Hanley, Jr.

MPH/jae
Enclosure(s)
cc: William T. Hackett, Chairman
County Board of Appeals
Carole S. Demilio, Esquire
Paul A. Harper, Esquire
Mr. George S. Beck

94 NOV 17 PM 2:47

RECEIVED
COUNTY BOARD OF APPEALS

10/94

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF
GEORGE S. BECK
GEORGE R. BECK
13240 Fork Road
Baldwin, Maryland 21013

FOR JUDICIAL REVIEW OF THE DECISION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Room 49, Old Courthouse, 400 Washing-
ton Avenue, Towson, MD 21204

*
*
*
*
* CIVIL
ACTION
* No. 94-CV-07650
* /89/134
*

IN THE CASE OF: IN THE MATTER OF
THE ESTATE OF RITA S. HOLLAND/
ELIZABETH HENDRICKSON, P.R.
FOR A SPECIAL HEARING ON PROPERTY
LOCATED ON THE WEST SIDE OF
FORK ROAD, 400' S OF BOTTOM ROAD
(13224 FORK ROAD)
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT
CASE NO. 94-139-SPH

*
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*
*
*
*

* * * * *

PROCEEDINGS BEFORE THE ZONING COMMISSIONER
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come C. William Clark and Harry E. Buchheister, Jr.,
constituting a majority of the County Board of Appeals of Baltimore
County, and in answer to the Petition for Judicial Review directed
against them in this case, herewith return the record of
proceedings had in the above-entitled matter, consisting of the
following certified copies or original papers on file in the Office
of Zoning Administration and Development Management and the Board
of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND
OFFICE OF ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT
OF BALTIMORE COUNTY

No. 94-139-SPH

September 24, 1993	Petition for Special Hearing to approve the right to subdivide 1 building lot from the existing 15.76 acre parcel, based on B.C.Z.R. Sec. 1A01.3, B, by confirming the density units available on the subject and neighboring properties and ruling the 1983 conveyance a non-density transfer.
October 7	Publication in newspapers.
October 22	Certificate of Posting of property.
November 9	Hearing held on Petition by the Deputy Zoning Commissioner.
November 18	Order of the Deputy Zoning Commissioner in which Petition for Special Hearing was GRANTED with restrictions.
December 15	Notice of Appeal filed by Mark P. Hanley, Jr. Esquire, on behalf of George S. Beck.
April 12, 1994	Hearing before the Board of Appeals.
June 2	Memorandum filed by Mark P. Hanley, Jr., Esquire on behalf of George S. Beck.
June 2	People's Counsel's Memorandum filed by Peter Max Zimmerman.
June 7	Memorandum of Petitioner filed by Paul A. Harper, Esquire, on behalf of Holland, Elizabeth Hendrickson.
June 16	Public Deliberation by County Board of Appeals.
July 20	Opinion and Order of the Board in which the Petition for Special Hearing was GRANTED with restrictions.
July 20	Dissenting Opinion of board member (WTH).
August 18	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Mark P. Hanley, Jr., Esquire.
August 19	Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court

Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Respectfully submitted,



Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals of Baltimore
County, Room 49, Basement - Old Courthouse
400 Washington Avenue
Towson, MD 21204 (410) 887-3180

cc: Mark P. Hanley, Jr., Esquire
Paul A. Harper, Esquire
People's Counsel for Baltimore County

94-139-SPH, The Estate of Rita S. Holland
File No. 94-CV-07650/89/134

for Baltimore County.

August 22 Certificate of Notice sent to interested parties.

October 14 Transcript of testimony filed.

Petitioner's Exhibits No. 1 -Plat by KLS 7/8/93
2 -Deed to George R. Beck from R. Holland 12/22/77
3 -Deed to George R. Beck from R. Holland
4 -Deed between George R. Beck and George S. Beck 8/10/90
5 -Photo of Holland house and alfalfa field
6 -Decision of D.Z.C. (Kotroco) 11/18/93

Appellant/Protestants Exhibits No. 1 -Deed from Holland to Beck
2 -Settlement Sheet
3 -Letter from Mark Hanley to Zoning Commissioner
4 -Letter from Office of ZADM and Mark Hanley
5 -Building Permit Application
6 -Letter from J. Dyer to McKee & Assoc.

October 14, 1994 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Respectfully submitted,



Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals of Baltimore
County, Room 49, Basement - Old Courthouse
400 Washington Avenue
Towson, MD 21204 (410) 887-3180

cc: Mark P. Hanley, Jr., Esquire
Paul A. Harper, Esquire
People's Counsel for Baltimore County

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF
GEORGE S. BECK
GEORGE R. BECK
13240 Fork Road
Baldwin, Maryland 21013

FOR JUDICIAL REVIEW OF THE DECISION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Room 49, Old Courthouse, 400 Washing-
ton Avenue, Towson, MD 21204

* CIVIL
* ACTION
* No. 94-CV-07650
* /89/134

IN THE CASE OF: IN THE MATTER OF
THE ESTATE OF RITA S. HOLLAND/
ELIZABETH HENDRICKSON, P.R.
FOR A SPECIAL HEARING ON PROPERTY
LOCATED ON THE WEST SIDE OF
FORK ROAD, 400' S OF BOTTOM ROAD
(13224 FORK ROAD)
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT
CASE NO. 94-139-SPH

* * * * *

CERTIFICATE OF NOTICE

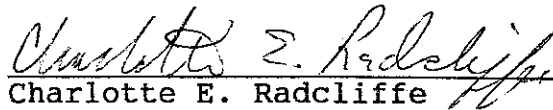
Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, C. William Clark and Harry E. Buchheister, Jr., constituting a majority of the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, Mark P. Hanley, Jr., Esquire, 206 Washington Avenue, Towson, MD 21204, Counsel for Petitioners; George S. Beck and George R. Beck, 13240 Fork Road, Baldwin, Md 21013, Petitioners; Paul A. Harper, Esquire, Room 47, Courthouse, 400 Washington Avenue, Towson, MD 21204, Counsel for Ms. Hendrickson; Elizabeth Hendrickson, 1419 Larch Road, Severn, MD 21144; Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Room 47, Washington Avenue, Towson, MD 21204; a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

RECEIVED AND FILED
94 AUG 22 PM 3:04
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Charlotte E. Radcliffe
Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Room 49 -Basement
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Mark P. Hanley, Jr., 206 Washington Avenue, Towson, MD 21204, Counsel for Petitioners; George S. Beck and George R. Beck, 13240 Fork Road, Baldwin, Md 21013, Petitioner; Paul A. Harper, Esquire, Room 47, Courthouse, 400 Washington Avenue, Towson, MD 21204, Counsel for Ms. Hendrickson; Elizabeth Hendrickson, 1419 Larch Road, Severn, MD 21144; Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Room 47, Washington Avenue, Towson, MD 21204, this 22nd day of August, 1994.



Charlotte E. Radcliffe

Legal Secretary

County Board of Appeals, Room 49 -Basement
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

August 22, 1994

Paul A. Harper, Esquire
7206 Belair Road
Baltimore, MD 21206

RE: Civil Action No. 94-CV-07650
THE ESTATE OF RITA S. HOLLAND,
ELIZABETH HENDRICKSON, P.R.

Dear Mr. Harper:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on August 18, 1994 in the Circuit Court for Baltimore County from the majority decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 89/134/94-CV-07650.

Enclosed is a copy of the Certificate of Notice, which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe
Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Elizabeth Hendrickson, P.R.
/Estate of Rita S. Holland
John Staley /K.L.S. Consultants, Inc.
People's Counsel for Baltimore County
Pat Keller /Planning
Lawrence E. Schmidt /ZADM
W. Carl Richards /ZADM
Docket Clerk /ZADM
Arnold Jablon /ZADM



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on Recycled Paper



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

August 22, 1994

Mark P. Hanley, Jr., Esquire
206 Washington Avenue
P.O. Box 5506
Towson, MD 21204

RE: Civil Action No. 94-CV-07650
THE ESTATE OF RITA S. HOLLAND,
ELIZABETH HENDRICKSON, P.R.

Dear Mr. Hanley:

In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court within sixty days, in accordance with Rule 7-206(c).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

A handwritten signature in cursive script, reading "Charlotte E. Radcliffe".

Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: George S. Beck
George R. Beck



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on Recycled Paper

8-18-94

IN THE CIRCUIT COURT FOR *
BALTIMORE COUNTY *

PETITION OF *
GEORGE S. BECK *
GEORGE R. BECK *
13240 Fork Road *
Baldwin, Maryland 21013 *

FOR JUDICIAL REVIEW OF THE *
DECISION OF THE COUNTY BOARD OF *
APPEALS OF BALTIMORE COUNTY *

IN THE CASE OF *
THE ESTATE OF RITA S. HOLLAND/ *
ELIZABETH HENDRICKSON, P.R. *
Case No. 94-139-SPH *

RECEIVED
COUNTY BOARD OF APPEALS
94 AUG 19 PM 2:53

CIVIL
ACTION
NO: 89-134 94-139-SPH

* * * * *

PETITION FOR JUDICIAL REVIEW

GEORGE S. BECK and GEORGE R. BECK, Petitioners, by their attorney, Mark P. Hanley, Jr. pursuant to Rule 7-202, represent:

1. They were parties to a proceeding before the County Board of Appeals of Baltimore County, known as The Estate of Rita S. Holland, Elizabeth Hendrickson, P.R., Case No. 94-139-SPH.

2. By Order dated July 20, 1994, the Board granted the right to subdivide one building lot from an existing 15.76 acre parcel, pursuant to Section 1A01.3B of the Baltimore County Zoning Regulations, by confirming the density units available on the subject and neighboring properties and ruling the 1983 conveyance a non-density transfer.

3. It was further Ordered that the Estate of Rita S. Holland contains two density units, and as such, the 3.56 acre parcel containing the existing improvements enjoys one density unit the 11.74 acre parcel contains the remaining density unit and, as such, it is a building lot.

4. It was further Ordered that the 1.09 acre lot acquired

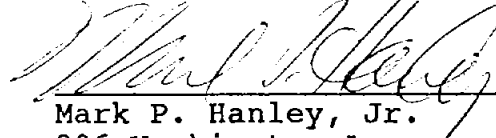
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94 AUG 18 AM 10:10
CLERK OF THE COURT
BALTIMORE COUNTY

DCG

by Petitioner in 1983 contains no density units and is therefor unbuildable.

5. Your Petitioner is aggrieved by that decision.

WHEREFORE your Petitioners request judicial review of the decision of the County Board of Appeals of Baltimore County.



Mark P. Hanley, Jr.
206 Washington Avenue
P.O. Box 5506
Towson, Maryland 21204
(410) 823-1174
Attorney for George S. Beck,
Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY this 18th day of August, 1994, that a copy of the foregoing pleading/paper was mailed by first class mail postage prepaid to the following:

Ms. Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Ms. Rosemary Gomez
13218 Fork Road
Baldwin, Maryland 21013

Peter Max Zimmerman, Esquire
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204

Paul A. Harper, Esquire
2125 Bellvale Road
Fallston, Maryland 21047

Peter M. Zimmerman and
Carol S. Demilio
Office of Peoples' Counsel
Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Lawrence Schmidt, Zoning Comm.
Department of Zoning & Planning
401 Bosley Avenue
Suite 406
Towson, Maryland 21204

Timothy M. Rotroco, Deputy
Zoning Commissioner
for Baltimore County
Office of Planning & Zoning
Suite 113, Courthouse
400 Washington Avenue
Towson, Maryland 21204

Ms. Elizabeth Hendrickson
1419 Larch Road
Severn, Maryland 21144

Arnold Jablon, Director
Zoning Administration and
Development Management
11 West Chesapeake Avenue
Towson, Maryland 21204


Mark P. Hanley, Jr.

LAW OFFICES
MARK P. HANLEY, JR.
206 WASHINGTON AVENUE
P. O. BOX 5506
TOWSON, MARYLAND 21204

TELEPHONE
(301) 823-1174

August 18, 1994

Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: THE ESTATE OF RITA S. HOLLAND/ELIZABETH HENDRICKSON,
PERSONAL REPRESENTATIVE, PETITIONER
W/S Fork Road, 400' S of Bottom Road
(13224 Fork Road)
11th Election District-6th Councilmanic District
Case No.: 94-139-SPH

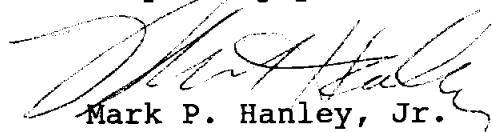
Dear Ms. Weidenhammer:

I recently filed a Petition for Judicial Review in the Circuit Court on behalf of George R. Beck and George S. Beck in the above matter.

Could you please notify me when the record has been transmitted to the Circuit Court?

Thank you for your cooperation in this matter.

Very truly yours,


Mark P. Hanley, Jr.

MPH/jdp

cc: Peter Max Zimmerman, Esquire
Carol S. Demilio
Paul A. Harper, Esquire
Ms. Elizabeth Hendrickson
Lawrence Schmidt, Zoning Commissioner
Timothy M. Rotroco, Deputy Zoning Commissioner
Arnold Jablon, Director Zoning Board
Ms. Rosemary Gomez
Mr. George R. Beck
Mr. George S. Beck

RECEIVED
COUNTY BOARD OF APPEALS
94 AUG 19 PM 2:53

THE ESTATE OF RITA S. HOLLAND,
ELIZABETH HENDRICKSON, P.R.
W/S Fork Road, 400' South of
Bottom Road
(13224 Fork Road)

94-139-SPH

11th Election District

RE: Special Hearing

September 24, 1993	Petition for Special Hearing to approve the right to subdivide 1 building lot from the existing 15.76 acre parcel, based on B.C.Z.R. Sec. 1A01.3, B, by confirming the density units available on the subject and neighboring properties and ruling the 1983 conveyance a non-density transfer.
November 18	Order of the D.Z.C. in which Petition for Special Hearing was GRANTED with restrictions.
December 15	Notice of Appeal filed by Mark P. Hanley, Jr. Esquire, on behalf of George S. and George R. Beck.
April 12, 1994	Hearing before the Board of Appeals.
June 2	Memorandum filed by Mark P. Hanley, Jr., Esquire on behalf of George S. and George R. Beck.
June 2	People's Counsel's Memorandum filed by Peter Max Zimmerman.
June 7	Memorandum of Petitioner filed by Paul A. Harper, Esquire, on behalf of Holland, Elizabeth Hendrickson.
July 20	Opinion and Order of the Board in which the Petition for Special Hearing was GRANTED with restrictions.
July 20	Dissenting Opinion of board member (WTH).
August 18	Petition for Judicial Review filed in the CCT Balto. Co. by Mark P. Hanley, Jr., Esquire.
August 19	Copy of Petition for Judicial Review received by the C.B. of A. from the CCT for Balto. Co.
August 22	Certificate of Notice sent to interested parties.
OCTOBER 14	✓ Transcript of testimony filed; Record of Proceedings filed in the Circuit Court.
August 15, 1995	✓E Memorandum Opinion and Order issued by CCT wherein the decision of the CBA was REVERSED; transfer to Mr. Beck of 1.09 ac. should be one density unit. (A. L. Brennan, J.)

93 DEC 20 PM 2:50

Petition for Special Hearing
W/S Fork Road, 400 ft S of Bottom Road
(13224 Fork Road)
11th Election District - 6th Councilmanic District
The Estate of Rita S. Holland and Elizabeth Hendrickson as
Personal Representative - PETITIONER
Case No. 94-139-SPH

- ✓ Petition(s) for Special Hearing
- ✓ Description of Property
- ✓ Certificate of Posting
- ✓ Certificate of Publication
- ✓ Zoning Plans Advisory Committee Comments
- ✓ Petitioner(s) and Protestant(s) Sign-In Sheets

Petitioner's Exhibits: ✓ 1 - Plat to Accompany Special Hearing
✓ 2 - Deed, Liber 5840, Page 404
✓ 3 - ^{DEED} (No Title Search) Liber 8554, Page 689
✓ 4 - Deed, Liber 8704, Page 238
✓ 5 - One Photograph
✓ 6 - Findings of Fact and Conclusions of Law
for Case No. 94-82-A

✓ Protestant's Exhibits: 1 - Letter to Mr. Mark P. Hanley dated
March 8, 1993

✓ Deputy Zoning Commissioner's Order dated November 18, 1993 (Granted)

✓ Notice of Appeal received on December 15, 1993 from Mark P. Hanley,
Jr., Esquire

* c: Mark P. Hanley, Jr., Esquire, 206 Washington Avenue, P.O. Box
5506, Towson, MD 21204 (ATTY / PROTESTANT)

Paul A. Harper, Esquire, 7206 Belair Road, Baltimore, MD 21206
(ATTY / PETITIONER)

Mr. John Staley, K.L.S. Consultants, Inc., 102 N. Main Street,
Bel Air, MD 21014

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
Timothy M. Kotroco, Deputy Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of ZADM

The Estate of Rita S. Holland
c/o Elizabeth Hendrickson P.R.
1419 Larch Road
Severn, MD 21144
(Petitioner)

George S. Beck
13240 Fork Road
Baldwin, MD 21013
(Protestant)

See
Case # 94-82-A
George Beck

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: March 28, 2000
 Permits & Development Management

FROM: Charlotte E. Radcliffe *ce*
 County Board of Appeals

SUBJECT: Closed File:
 94-139-SPH /Estate of Rita S. Holland
 and Elizabeth Hendrickson, P.R.

Pursuant to our recent request for the current status of the above captioned case, the Board was informed by a clerk in the CCt that this case was completed in the upper courts in August, 1995 and the original file and exhibits were returned to your office by John Almond, Records Manager /CCT. Therefore, we are hereby closing the Board's case file and returning same to you herewith.

/cer

Attachment - Case File - 94-139-SPH

PETITION OF: George S. & George R. Beck

CIVIL ACTION # 94-CV-07650 / 89/134

IN THE MATTER OF THE ESTATE OF RITA S. HOLLAND
ELIZABETH HENDRICKSON, P.R.

RECEIVED FROM THE COUNTY BOARD OF
APPEALS EXHIBITS, BOARD'S RECORD
EXTRACT & TRANSCRIPT FILED IN THE
ABOVE-ENTITLED CASE, AND ZONING
COMMISSIONER'S FILE AND EXHIBITS


Clerk's Office

Date: _____

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF
GEORGE S. BECK
GEORGE R. BECK
13240 Fork Road
Baldwin, Maryland 21013

FOR JUDICIAL REVIEW OF THE DECISION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Room 49, Old Courthouse, 400 Washing-
ton Avenue, Towson, MD 21204

* CIVIL
* ACTION
* No. 94-CV-07650
* /89/134

IN THE CASE OF: IN THE MATTER OF
THE ESTATE OF RITA S. HOLLAND/
ELIZABETH HENDRICKSON, P.R.
FOR A SPECIAL HEARING ON PROPERTY
LOCATED ON THE WEST SIDE OF
FORK ROAD, 400' S OF BOTTOM ROAD
(13224 FORK ROAD)
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT
CASE NO. 94-139-SPH

* * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, C. William Clark and Harry E. Buchheister, Jr., constituting a majority of the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, Mark P. Hanley, Jr., Esquire, 206 Washington Avenue, Towson, MD 21204, Counsel for Petitioners; George S. Beck and George R. Beck, 13240 Fork Road, Baldwin, Md 21013, Petitioners; Paul A. Harper, Esquire, Room 47, Courthouse, 400 Washington Avenue, Towson, MD 21204, Counsel for Ms. Hendrickson; Elizabeth Hendrickson, 1419 Larch Road, Severn, MD 21144; Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Room 47, Washington Avenue, Towson, MD 21204; a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

RECEIVED AND FILED
94 AUG 22 PM 3:04
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Charlotte E. Radcliffe
Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals, Room 49 -Basement
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

August 22, 1994

Paul A. Harper, Esquire
7206 Belair Road
Baltimore, MD 21206

RE: Civil Action No. 94-CV-07650
THE ESTATE OF RITA S. HOLLAND,
ELIZABETH HENDRICKSON, P.R.

Dear Mr. Harper:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on August 18, 1994 in the Circuit Court for Baltimore County from the majority decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 89/134/94-CV-07650.

Enclosed is a copy of the Certificate of Notice, which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe
Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Elizabeth Hendrickson, P.R.
/Estate of Rita S. Holland
John Staley /K.L.S. Consultants, Inc.
People's Counsel for Baltimore County
Pat Keller /Planning
Lawrence E. Schmidt /ZADM
W. Carl Richards /ZADM
Docket Clerk /ZADM
Arnold Jablon /ZADM



Printed with Soybean Ink
on Recycled Paper

5. That on February 6, 1993 the transferror, Rita S. Holland passed away (TL-19).

6. That on February 18, 1993 by formal request and payment of the Forty Dollar (\$40.00) fee (TL-50-Appellant's Exhibit "1"), George S. Beck requested of the Baltimore County Zoning Administration Office the availability of building upon the subject lot and to which request a response was issued on March 8, 1993 (TL-51- Appellant's Exhibit "2") wherein Catherine A. Milton, Planner I, issued the following (TL-39-Appellant's Exhibit "5"):

"This office has reviewed the information supplied by you in a letter dated, February 18, 1993. That information in conjunction with our research has led to the conclusion that from a zoning density perspective the lot is buildable for residential purposes."

7. That in reliance upon this response by the Zoning Office, George S. Beck proceeded to request a formal building permit from the Administrative Office, Permit Section for Baltimore County.

ARGUMENT

1. That it is the contention of the Appellant/Protestant that under Section 26-170 of the County Code titled General Exemption, there was no necessity for a formal subdivision for agricultural transfer as same is exempt under the aforementioned Section of the Agricultural Division of the Code (TL-42).



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

August 22, 1994

Mark P. Hanley, Jr., Esquire
206 Washington Avenue
P.O. Box 5506
Towson, MD 21204

RE: Civil Action No. 94-CV-07650
THE ESTATE OF RITA S. HOLLAND,
ELIZABETH HENDRICKSON, P.R.

Dear Mr. Hanley:

In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court within sixty days, in accordance with Rule 7-206(c).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: George S. Beck
George R. Beck



Printed with Soybean Ink
on Recycled Paper

8-18-94

IN THE CIRCUIT COURT FOR *
BALTIMORE COUNTY *

PETITION OF *
GEORGE S. BECK *
GEORGE R. BECK *
13240 Fork Road *
Baldwin, Maryland 21013 *

FOR JUDICIAL REVIEW OF THE *
DECISION OF THE COUNTY BOARD OF *
APPEALS OF BALTIMORE COUNTY *

IN THE CASE OF *
THE ESTATE OF RITA S. HOLLAND/ *
ELIZABETH HENDRICKSON, P.R. *
Case No. 94-139-SPH *

RECEIVED
COUNTY BOARD OF APPEALS
94 AUG 19 PM 2:53

CIVIL
ACTION
NO: 89-134 94-139-SPH

* * * * *

PETITION FOR JUDICIAL REVIEW

GEORGE S. BECK and GEORGE R. BECK, Petitioners, by their attorney, Mark P. Hanley, Jr. pursuant to Rule 7-202, represent:

1. They were parties to a proceeding before the County Board of Appeals of Baltimore County, known as The Estate of Rita S. Holland, Elizabeth Hendrickson, P.R., Case No. 94-139-SPH.

2. By Order dated July 20, 1994, the Board granted the right to subdivide one building lot from an existing 15.76 acre parcel, pursuant to Section 1A01.3B of the Baltimore County Zoning Regulations, by confirming the density units available on the subject and neighboring properties and ruling the 1983 conveyance a non-density transfer.

3. It was further Ordered that the Estate of Rita S. Holland contains two density units, and as such, the 3.56 acre parcel containing the existing improvements enjoys one density unit the 11.74 acre parcel contains the remaining density unit and, as such, it is a building lot.

4. It was further Ordered that the 1.09 acre lot acquired

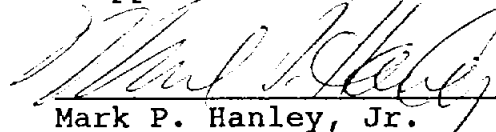
RECEIVED AND FILED
94 AUG 18 AM 10:10
CLERK OF THE COURT
BALTIMORE COUNTY

DCG

by Petitioner in 1983 contains no density units and is therefor unbuildable.

5. Your Petitioner is aggrieved by that decision.

WHEREFORE your Petitioners request judicial review of the decision of the County Board of Appeals of Baltimore County.



Mark P. Hanley, Jr.
206 Washington Avenue
P.O. Box 5506
Towson, Maryland 21204
(410) 823-1174
Attorney for George S. Beck,
Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY this 18th day of August, 1994, that a copy of the foregoing pleading/paper was mailed by first class mail postage prepaid to the following:

Ms. Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Ms. Rosemary Gomez
13218 Fork Road
Baldwin, Maryland 21013

Peter Max Zimmerman, Esquire
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204

Paul A. Harper, Esquire
2125 Bellvale Road
Fallston, Maryland 21047

Peter M. Zimmerman and
Carol S. Demilio
Office of Peoples' Counsel
Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Lawrence Schmidt, Zoning Comm.
Department of Zoning & Planning
401 Bosley Avenue
Suite 406
Towson, Maryland 21204

Timothy M. Rotroco, Deputy
Zoning Commissioner
for Baltimore County
Office of Planning & Zoning
Suite 113, Courthouse
400 Washington Avenue
Towson, Maryland 21204

Ms. Elizabeth Hendrickson
1419 Larch Road
Severn, Maryland 21144

Arnold Jablon, Director
Zoning Administration and
Development Management
11 West Chesapeake Avenue
Towson, Maryland 21204


Mark P. Hanley, Jr.

LAW OFFICES
MARK P. HANLEY, JR.
206 WASHINGTON AVENUE
P. O. BOX 5506
TOWSON, MARYLAND 21204

TELEPHONE
(301) 823-1174

August 18, 1994

Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: THE ESTATE OF RITA S. HOLLAND/ELIZABETH HENDRICKSON,
PERSONAL REPRESENTATIVE, PETITIONER
W/S Fork Road, 400' S of Bottom Road
(13224 Fork Road)
11th Election District-6th Councilmanic District
Case No.: 94-139-SPH

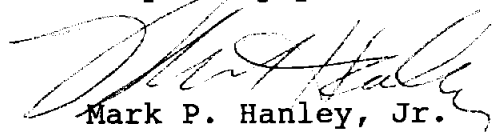
Dear Ms. Weidenhammer:

I recently filed a Petition for Judicial Review in the Circuit Court on behalf of George R. Beck and George S. Beck in the above matter.

Could you please notify me when the record has been transmitted to the Circuit Court?

Thank you for your cooperation in this matter.

Very truly yours,


Mark P. Hanley, Jr.

MPH/jdp

cc: Peter Max Zimmerman, Esquire
Carol S. Demilio
Paul A. Harper, Esquire
Ms. Elizabeth Hendrickson
Lawrence Schmidt, Zoning Commissioner
Timothy M. Rotroco, Deputy Zoning Commissioner
Arnold Jablon, Director Zoning Board
Ms. Rosemary Gomez
Mr. George R. Beck
Mr. George S. Beck

RECEIVED
COUNTY BOARD OF APPEALS
94 AUG 19 PM 2:53

THE ESTATE OF RITA S. HOLLAND,
ELIZABETH HENDRICKSON, P.R.
W/S Fork Road, 400' South of
Bottom Road
(13224 Fork Road)

94-139-SPH

11th Election District

RE: Special Hearing

September 24, 1993	Petition for Special Hearing to approve the right to subdivide 1 building lot from the existing 15.76 acre parcel, based on B.C.Z.R. Sec. 1A01.3, B, by confirming the density units available on the subject and neighboring properties and ruling the 1983 conveyance a non-density transfer.
November 18	Order of the D.Z.C. in which Petition for Special Hearing was GRANTED with restrictions.
December 15	Notice of Appeal filed by Mark P. Hanley, Jr. Esquire, on behalf of George S. and George R. Beck.
April 12, 1994	Hearing before the Board of Appeals.
June 2	Memorandum filed by Mark P. Hanley, Jr., Esquire on behalf of George S. and George R. Beck.
June 2	People's Counsel's Memorandum filed by Peter Max Zimmerman.
June 7	Memorandum of Petitioner filed by Paul A. Harper, Esquire, on behalf of Holland, Elizabeth Hendrickson.
July 20	Opinion and Order of the Board in which the Petition for Special Hearing was GRANTED with restrictions.
July 20	Dissenting Opinion of board member (WTH).
August 18	Petition for Judicial Review filed in the CCT Balto. Co. by Mark P. Hanley, Jr., Esquire.
August 19	Copy of Petition for Judicial Review received by the C.B. of A. from the CCT for Balto. Co.
August 22	Certificate of Notice sent to interested parties.
OCTOBER 14	✓ Transcript of testimony filed; Record of Proceedings filed in the Circuit Court.
August 15, 1995	✓E Memorandum Opinion and Order issued by CCT wherein the decision of the CBA was REVERSED; transfer to Mr. Beck of 1.09 ac. should be one density unit. (A. L. Brennan, J.)

93 DEC 20 PM 2:50

Petition for Special Hearing
W/S Fork Road, 400 ft S of Bottom Road
(13224 Fork Road)
11th Election District - 6th Councilmanic District
The Estate of Rita S. Holland and Elizabeth Hendrickson as
Personal Representative - PETITIONER
Case No. 94-139-SPH

- ✓ Petition(s) for Special Hearing
- ✓ Description of Property
- ✓ Certificate of Posting
- ✓ Certificate of Publication
- ✓ Zoning Plans Advisory Committee Comments
- ✓ Petitioner(s) and Protestant(s) Sign-In Sheets

Petitioner's Exhibits: ✓ 1 - Plat to Accompany Special Hearing
✓ 2 - Deed, Liber 5840, Page 404
✓ 3 - ^{DEED} (No Title Search) Liber 8554, Page 689
✓ 4 - Deed, Liber 8704, Page 238
✓ 5 - One Photograph
✓ 6 - Findings of Fact and Conclusions of Law
for Case No. 94-82-A

✓ Protestant's Exhibits: 1 - Letter to Mr. Mark P. Hanley dated
March 8, 1993

✓ Deputy Zoning Commissioner's Order dated November 18, 1993 (Granted)

✓ Notice of Appeal received on December 15, 1993 from Mark P. Hanley,
Jr., Esquire

* c: Mark P. Hanley, Jr., Esquire, 206 Washington Avenue, P.O. Box
5506, Towson, MD 21204 (ATTY / PROTESTANT)

Paul A. Harper, Esquire, 7206 Belair Road, Baltimore, MD 21206
(ATTY / PETITIONER)

Mr. John Staley, K.L.S. Consultants, Inc., 102 N. Main Street,
Bel Air, MD 21014

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
Timothy M. Kotroco, Deputy Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of ZADM

The Estate of Rita S. Holland
c/o Elizabeth Hendrickson P.R.
1419 Larch Road
Severn, MD 21144
(Petitioner)

George S. Beck
13240 Fork Road
Baldwin, MD 21013
(Protestant)

See
Case # 94-82-A
George Beck

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: March 28, 2000
 Permits & Development Management

FROM: Charlotte E. Radcliffe *ce*
 County Board of Appeals

SUBJECT: Closed File:
 94-139-SPH /Estate of Rita S. Holland
 and Elizabeth Hendrickson, P.R.

Pursuant to our recent request for the current status of the above captioned case, the Board was informed by a clerk in the CCt that this case was completed in the upper courts in August, 1995 and the original file and exhibits were returned to your office by John Almond, Records Manager /CCT. Therefore, we are hereby closing the Board's case file and returning same to you herewith.

/cer

Attachment - Case File - 94-139-SPH

PETITION OF: George S. & George R. Beck

CIVIL ACTION # 94-CV-07650 / 89/134

IN THE MATTER OF THE ESTATE OF RITA S. HOLLAND
ELIZABETH HENDRICKSON, P.R.

RECEIVED FROM THE COUNTY BOARD OF
APPEALS EXHIBITS, BOARD'S RECORD
EXTRACT & TRANSCRIPT FILED IN THE
ABOVE-ENTITLED CASE, AND ZONING
COMMISSIONER'S FILE AND EXHIBITS


Clerk's Office

Date: _____

2. That Mr. James McKee of McKee & Associates testified as an expert that under the Baltimore County Code concerning RC2 zone, Rita S. Holland was permitted to Deed off one lot and same would be exempted under the aforementioned Section 26-170, subject to compliance with all applicable zoning regulations, and that a special hearing concerning same would not have been required (TL-46).

3. That the expert called on behalf of the Appellant/Protestant, namely, James McKee of McKee & Associates, testified that under County policy then in existence it was proper and sanctioned by the County to make transfers for agricultural purposes similar to the one in this case without the formality of a subdivision proceeding (TL-50, Appellant's Exhibit "6").

4. That James McKee of McKee & Associates further testified that a density unit would follow the transfer of this parcel, for if this were not the case, a special hearing for a non-density transfer would have been required (TL-50).

5. That James McKee of McKee & Associates also testified that it was customary where the first to apply (TL-61) for said permit would take precedence over any other applications for said permit which in this case would, in fact, be George S. Beck who applied first for the building permit.

CONCLUSION

On behalf of the Appellant/Protestant, the Petitioner respectfully requested that the building permit which was applied for and granted by the Baltimore County Zoning Office be allowed to stand and that the application of the Estate of Rita S. Holland be for denying this density unit be denied.

Respectfully submitted,



Mark P. Hanley, Jr.
206 Washington Avenue
P.O. Box 5506
Towson, Maryland 21204
(410) 823-1174
Attorney for Appellant/
Protestant

10/94

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF
GEORGE S. BECK
GEORGE R. BECK
13240 Fork Road
Baldwin, Maryland 21013

FOR JUDICIAL REVIEW OF THE DECISION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Room 49, Old Courthouse, 400 Washing-
ton Avenue, Towson, MD 21204

*
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*
*
* CIVIL
ACTION
* No. 94-CV-07650
* /89/134
*

IN THE CASE OF: IN THE MATTER OF
THE ESTATE OF RITA S. HOLLAND/
ELIZABETH HENDRICKSON, P.R.
FOR A SPECIAL HEARING ON PROPERTY
LOCATED ON THE WEST SIDE OF
FORK ROAD, 400' S OF BOTTOM ROAD
(13224 FORK ROAD)
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT
CASE NO. 94-139-SPH

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PROCEEDINGS BEFORE THE ZONING COMMISSIONER
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come C. William Clark and Harry E. Buchheister, Jr.,
constituting a majority of the County Board of Appeals of Baltimore
County, and in answer to the Petition for Judicial Review directed
against them in this case, herewith return the record of
proceedings had in the above-entitled matter, consisting of the
following certified copies or original papers on file in the Office
of Zoning Administration and Development Management and the Board
of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND
OFFICE OF ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT
OF BALTIMORE COUNTY

No. 94-139-SPH

September 24, 1993	Petition for Special Hearing to approve the right to subdivide 1 building lot from the existing 15.76 acre parcel, based on B.C.Z.R. Sec. 1A01.3, B, by confirming the density units available on the subject and neighboring properties and ruling the 1983 conveyance a non-density transfer.
October 7	Publication in newspapers.
October 22	Certificate of Posting of property.
November 9	Hearing held on Petition by the Deputy Zoning Commissioner.
November 18	Order of the Deputy Zoning Commissioner in which Petition for Special Hearing was GRANTED with restrictions.
December 15	Notice of Appeal filed by Mark P. Hanley, Jr. Esquire, on behalf of George S. Beck.
April 12, 1994	Hearing before the Board of Appeals.
June 2	Memorandum filed by Mark P. Hanley, Jr., Esquire on behalf of George S. Beck.
June 2	People's Counsel's Memorandum filed by Peter Max Zimmerman.
June 7	Memorandum of Petitioner filed by Paul A. Harper, Esquire, on behalf of Holland, Elizabeth Hendrickson.
June 16	Public Deliberation by County Board of Appeals.
July 20	Opinion and Order of the Board in which the Petition for Special Hearing was GRANTED with restrictions.
July 20	Dissenting Opinion of board member (WTH).
August 18	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Mark P. Hanley, Jr., Esquire.
August 19	Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court

Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Respectfully submitted,



Charlotte E. Radcliffe, Legal Secretary
County Board of Appeals of Baltimore
County, Room 49, Basement - Old Courthouse
400 Washington Avenue
Towson, MD 21204 (410) 887-3180

cc: Mark P. Hanley, Jr., Esquire
Paul A. Harper, Esquire
People's Counsel for Baltimore County

81/12/1998 15:32 4188873182 BOARD OF APPEALS PAGE 81

PETITION OF GEORGE S. BECK * IN THE
GEORGE R. BECK *
CIRCUIT COURT
FOR JUDICIAL REVIEW OF THE *
DECISION OF THE COUNTY BOARD * FOR
OF APPEALS OF BALTIMORE *
COUNTY * BALTIMORE COUNTY
IN THE CASE OF THE ESTATE OF *
RITA S. HOLLAND / ELIZABETH *
HENDRICKSON, P.R. * CASE No.: 94 CV 7650

MEMORANDUM OPINION AND ORDER

STATEMENT OF THE CASE

On July 20, 1994 the Board of Appeals approved the subdivision of a 15.756 acre parcel held by the Estate of Rita S. Holland into two lots, each containing one density unit. In approving the subdivision, it was necessary for the board to find that petitioner's 1983 purchase of 1.09 acres carved from this plot did not involve the transfer of a density unit. This case arrives before this Court on appeal from that ruling.

Post-It Fax Note 7671 Date 1/14/99 6:16 PM
To: Mr. Beck
From: Mr. Beck
Subject: 94-882-3180
Phone # 3180

CO-OP 01 SW 55

81/12/1998 15:32 4188873182 BOARD OF APPEALS PAGE 82

SUMMARY OF FACTS

Prior to 1977 Rita S. Holland owned a 18.846 acre plot of land on Fork Road. In 1977 she transferred by deed to petitioner George S. Beck a two (2) acre parcel leaving her 16.856 acres. In 1979 the area was zoned R.C. 2 and two density units were assigned to each plot.

In 1983 petitioner purchased from Ms. Holland a 1.09 acre plot situated between their two existing plots. Petitioner contends that he purchased the land to give to his son so that his son could build a home there. Accordingly he maintains that the purchase was intended to include the transfer of one density unit. Respondent, Elizabeth Hendrickson for the Estate of Rita Holland, maintains that this transfer was not intended to include the transfer of a density unit.

STANDARD OF REVIEW

The scope of review to be applied by this Court when reviewing the decisions of the Office of Administrative Hearings is set forth in State Government Article, Section 10-222(h). This section provides:

(h) Decision. - In a proceeding under this section, the court may:

(1) remand the case for further proceedings;

(2) affirm the final decision; or

(3) reverse or modify the decision if any substantial right of the petitioner may have been prejudiced because a finding, conclusion, or decision:

(i) is unconstitutional;

(ii) exceeds the statutory authority or

81/12/1998 15:32 4188873182 BOARD OF APPEALS PAGE 83

jurisdiction of the final decision maker;

(iii) results from an unlawful procedure;

(iv) is affected by any other error of law;

(v) is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or

(vi) is arbitrary or capricious.

The application of this standard by the Circuit Court involves great discretion. "A decision as to whether to remand, affirm, reverse, or modify a decision of an administrative agency is one that is committed to the sound discretion of the trial court." *Eaton v. Rosewood Center* 86 Md.App. 366, 376 (1991). Where the decision of the agency "is predicated solely on an error of law, no deference is appropriate and the reviewing court may substitute its judgment for that of the agency." *Shanty Town v. Depart. Of Environment* 92 Md.App. 103, 111 (1992), citing *State Election Board v. Billhimer* 314 Md. 46, 58 548 A.2d 819 (1988), cert. denied, 490 U.S. 1007, 109 S.Ct. 1644, 104L.Ed.2d 159 (1989).

The "substantial evidence" standard under section 10-222 has been defined by the court as "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Bulluck v. Pelham Wood Apts.*, 283 Md. 505, 512, 390 A.2d 1119 (1978), citing *Snowden v. Mayor & C.C. of Balto.*, 224 Md. 443, 448, 168 A.2d 390 (1961). In applying this standard "a court should not substitute its judgment for the expertise of those persons who constitute the administrative agency from which the appeal is taken." *Bulluck v. Pelham Wood*

81/12/1998 15:32 4188873182 BOARD OF APPEALS PAGE 84

Apts., 283 Md. 505, 512, 390 A.2d 1119 (1978), citing *Barnstein v. Real Estate Comm.*, 221 Md. 221, 230, 156 A.2d 657 (1959), appeal dismissed, 363 U.S. 419, 80 S.Ct. 1257, 4 L.Ed.2d 1515 (1960). The decisions of the agency must be viewed "in the light most favorable to the agency, since "decisions of administrative agencies are prima facie correct," *Bulluck v. Pelham Wood Apts.*, 283 Md. 505, 512, 390 A.2d 1119 (1978), citing *Hoyt v. Police Comm'r*, 279 Md. 74, 88-89, 367 A.2d 924 (1977), and "carry with them the presumption of validity." *Bulluck v. Pelham Wood Apts.*, 283 Md. 505, 512, 390 A.2d 1119 (1978), citing *Dickinson-Tidewater, Inc. v. Supervisor*, 273 Md. 245, 256, 329 A.2d 18 (1974). The question for the reviewing court, therefore, is "whether a reasoning mind could have reached the factual conclusion reached by the agency." *Liberty Nursing v. Department of Health and Mental Hygiene*, 330 Md. 433, 443, 624 A.2d 941 (1993), citing *Snowden v. Mayor and City Council of Balto.*, 224 Md. 443, 448, 168 A.2d 390, 391 (1961).

OPINION AND ORDER

The 1.09 acre parcel in question was bought for \$16,000 (protestant's exhibit 2), far in excess of what would have been reasonable for a mere buffer zone between two pieces of property. Furthermore, on the settlement sheet at the time of purchase, mention was made of a \$640.00 Agricultural Penalty Charge (protestant's exhibit 2). This charge would not have

81/12/1998 15:32 4188873182 BOARD OF APPEALS PAGE 85

been referenced in that document had both parties not been aware of plans for future development on the plot. Finally, the lot was at all times subsequent to the 1983 sale a separate lot of record. Taken together these facts conclusively indicate that the plot was transferred as a separate lot with its own density unit for development purposes.

The position, size, and shape of the parcel are also indicative of the parties' intent at the time of transfer. The plot is rectangular with direct access to a public road (petitioner's exhibit 1). It is 1.09 acres, which is particularly significant in light of the Baltimore County Zoning Regulations §1A01.3B(2) which states in relevant part, "A lot having an area less than 1 acre may not be created in an R.C. 2 zone." Finally, prior to this case petitioner actually did transfer the parcel in question to his son George R. Beck who in turn applied for a building permit (protestant's exhibits 3 and 4). These facts are completely consistent with intent to create a separate lot useful for the purpose of building a home.

Were this the sum of the evidence in the record, this Court would feel compelled to reverse the decision below. However, there is also testimony indicating density units were assumed to be transferred with land and that customary procedure was to require a special hearing to affirm a transfer which did not involve a density unit (transcript pps. 46-47). No such hearing was requested or held with respect to the 1983 transfer.

81/12/1998 15:32 4188873182 BOARD OF APPEALS PAGE 86

This Court finds that the decision below is unsupported by competent, material, and substantial evidence in light of the entire record as submitted. In fact, it seems to go directly against the clear and convincing weight of the evidence.

It is therefore ORDERED this 15th day of August, 1995 that the decision of the Board of Appeals of Baltimore County be reversed. Accordingly, the 1983 transfer from Ms. Holland to Mr. Beck of 1.09 acres should be considered to have included one density unit.

As a necessary result of this holding, the board's approval of the subdivision of respondent's property into two lots with one density unit each is invalidated as the undivided plot contains only one density unit.

cc: Mark P. Hanley, Jr. Esquire
Paul A. Harper, Esquire
Peter Max Zimmerman, Esquire
Board of Appeals

Alfred L. Brennan, Sr.
Judge Alfred L. Brennan, Sr.

IN THE MATTER OF
THE APPLICATION OF
THE ESTATE OF RITA S. HOLLAND,
ELIZABETH HENDRICKSON, P.R.
FOR SPECIAL HEARING ON PROPERTY
LOCATION ON THE WEST SIDE FORK
ROAD, 400' SOUTH OF BOTTOM ROAD
(13224 FORK ROAD)
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 94-139-SPH

OPINION

The Personal Representative of The Estate of Rita Holland filed a petition requesting a special hearing on a 15.756 +/- acre parcel of land zoned R.C. 2, seeking approval to subdivide the aforesaid parcel into two building lots, each with one density unit, and to confirm that a conveyance of 1.09 acres in 1983 by the now-deceased property owner was a non-density transfer. The grantee of the aforesaid 1.09 acres contests that portion of the relief which seeks to designate the 1.09 acres as a non-density transfer. The Board heard testimony from various witnesses and received documentary and photographic evidence. From that testimony and evidence, we find the following facts to which we apply the law.

The Resource Conservation Zones (hereinafter R.C.) were established by the Baltimore County Council in 1975. The R.C. 2 zone was created by this legislation. The density accorded a lot in an R.C. 2 zone was developed by 1979 in Bill No. 178-79, and is found in Section 1A01.3B of the Baltimore County Zoning Regulations (hereinafter BCZR), which states:

"Area regulations. [Bill No. 178-79]

1. Subdivision lot density. No lot of record lying within an R.C. 2 zone and having a gross area of less

Case No. 94-139-SPH The Estate of Rita S. Holland 2

than 2 acres may be subdivided. No such lot having a gross area between 2 and 100 acres may be subdivided into more than 2 lots (total), and such a lot having a gross area of more than 100 acres may be subdivided only at the rate of 1 lot for each 50 acres of gross area.... [Bill No. 178-79; Bill No. 199-90]

2. Lot size. A lot having an area less than 1 acre may not be created in an R.C. 2 zone. [Bill No. 178-79]

The term "subdivision" is defined in Section 26-168 of the Baltimore County Code:

"Subdivision means the division of property into two (2) or more lots or the combination of lots, parcels, tracts, or other units of property previously divided for the purpose, whether immediate or future, of sale, rental, or building development."

A "subdivision" is defined in BCZR, Section 101, as follows:

"Subdivision: The division of any tract or parcel of land, including frontage along an existing street or highway, into two or more lots, plots or other divisions of land for the purpose, whether immediate or future, of building development for rental or sale, and including all changes in street or lot lines, provided, however, that this definition of a subdivision shall not include divisions of land for agricultural purposes. [BCZR, 1995]"

Density calculations for an R.C. 2 lot of record existing in 1979 are based on the total acreage at that time. A subdivision of a lot of record subsequent to 1979 cannot create a greater density than the original designation of density provided in the R.C. 2 legislation. The subdivision of an R.C. 2 zone lot of record is subject to the BCZR for residential development plans. Section 1A00.4 BCZR provides as follows:

"Plans and Plots. [Bill No. 98-78]

Development Plans and Final Subdivision Plots shall be required in the manner prescribed under Section 1801.3 and for the purpose of this section, all references to D.R. zones shall include the D.R.

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The Section does not require a public hearing to subdivide land for agricultural purposes.

The term "subdivision" is also defined in §26-168 of the Baltimore County Code:

"Subdivision means the division of property into two (2) or more lots or the combination of lots, parcels, tracts, or other units of property previously divided for the purpose, whether immediate or future, of sale, rental, or building development."

It is noteworthy that the present case does not involve a question of transfer of density from one "lot of record" to another (across lot of record boundaries), but rather the question of whether there has been a subdivision of a single parcel. This distinction should be kept in mind because there does not appear to be any legal authority for the transfer of density between parcels in R.C. 2 zones, in the absence of specific legislative authority. See West Montgomery Citizens v. Maryland National Capital Park & Planning Commission, 309 Md. 183 (1987); see also the attached Circuit Court decision in the Steven H. Gudeman case.

II. FACTS

Rita S. Holland owned between fifteen and twenty acres of land on Fork Road from which she first created two separate parcels. The testimony in the instant case indicates that in 1977, she transferred, by deed, two acres to George R. Beck, the Protestant herein. It should be noted that this transfer preceded the Regulations establishing density for R.C. 2 property. Thus, on the effective date of the density Regulations in Bill 178-79, Mrs. Holland owned lot of record between two and one hundred acres with two density units and Mr. Beck owned a lot of record consisting of two acres with two density units. These facts are undisputed. In December, 1983, a second transfer by

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deed occurred between Mrs. Holland and Mr. Beck. This transfer consisted of 1.09 acres. It remained a separate lot of record after its recordation in the Land Records Office for Baltimore County on July 30, 1990. The deed did not reference density units or an agricultural purpose to the transfer. Less than five months after recording his deed, Mr. Beck transferred the 1.09 acres to his son, George S. Beck, presumably, upon which to build a residence.

The Petitioner in the instant case is the daughter and Personal Representative of the Estate of Rita S. Holland. She testified that in November, 1979, Mrs. Holland owned a lot of record with total acreage of 16.846, consisting of the current holding of 15.756 acres and the 1.09 acres subsequently transferred to Mr. Beck.

It is the density of the 1.09 acre parcel that is in dispute. The Petitioner maintains that it was a non-density transfer made in accordance with Section 26-170 of the Baltimore County Code to add to Mr. Beck's yard. As such, the remaining 15.756 acres retained two density units, which supports the requested subdivision into two building lots. The Protestant maintains that the transfer of 1.09 acres to him included one density unit for a separate lot of record.

It is the position of the Office of People's Counsel that in November, 1979, Mrs. Holland owned a lot of record containing 16.846 acres, with two density units. While the property may be subdivided in accordance with BCZR and the Baltimore County Code, only two density units are attributable to the 16.846 acres. People's Counsel does not dispute that Mr. Beck maintains two density units on his two acre lot of record created by deed dated December, 1977.

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III. LEGAL ARGUMENT

The issue in this case presents a dispute between two property owners as to the nature of a conveyance. A decision requires the resolution of title and the interpretation and application of contract law. The jurisdiction of the Board of Appeals of Baltimore County in zoning cases is found in the Express Powers Act, Article 25A, Section 5(U) of the Annotated Code of Maryland. This law enables Baltimore County to enact local laws to establish a Board of Appeals to decide petitions, "by any interested person and after notice and opportunity for hearing and on the basis of the record before the board, of such of the following matters arising...under any law, ordinance, or regulation of, or subject to amendment or repeal by, the county council, as shall be specified from time to time by such local laws enacted under this subsection: An application for a zoning variation or exception or amendment of a zoning ordinance map;..." The authority of the Board of Appeals does not extend to resolving contract or title disputes.

Although the instant case is presented under the guise of a Special Hearing, the underlying issue focuses on the evidence surrounding the intentions of the parties at the time of the transfer of the 1.09 acre lot. The parties themselves do not dispute the Baltimore County Zoning Regulations pertaining to density attributable to R.C. 2 property. In fact, this case arose because the Petitioner and Protestant agree that two density units existed on Mrs. Holland's 16.846 acre parcel immediately prior to the sale of 1.09 acres of that parcel to Mr. Beck. The parties disagree on the issue of whether a density unit was included in the sale. The Board cannot grant the

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Petition for Special Hearing unless it also finds that the sale of the 1.09 acres was a non-density transfer.

There appears to be no mandatory procedure in the BCZR to distinguish a non-density transfer from a transfer which includes a permitted density unit. The Protestants presented an expert witness who testified that the customary procedure has been to require a Special Hearing to affirm a non-density transfer. The parties did not request a Special Hearing. Nor did they proceed through the development process to create a subdivision with two building lots in 1983. Therefore, a ruling in this case requires a determination of the intention of the parties at the time of sale. There was no evidence of a written agreement executed between the parties for the sale of the subject site. The testimony of the parties evidences a conflict as to the intentions of the Grantor and Grantee as to the purpose of the sale of the 1.09 acre parcel. In addition, the Dead Man's Statute would prevent certain testimony in an evidentiary hearing, thus making intent even more difficult to ascertain. The Board may infer intent from the statute (Section 26-170 of the Baltimore County Code), which authorized the sale of this parcel for agricultural purposes. However, neither party clarified their intention with a Special Hearing or by proceeding through the development process.

Thus, the real issues to be decided in this case does not present the usual posture for this Board to decide zoning Petitions. The relief requested in the Petition for Special Hearing and the issues raised by the Protestant may very well be beyond the jurisdiction of the Board of Appeals.

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Given the framework in which this case must be decided and the decisions which must be rendered by the Board to rule on the relief requested by the Petitioner, it may be appropriate for this Board to stay a decision in this matter and allow the parties to proceed with a Declaratory Action in the Circuit Court for Baltimore County. This would enable a judicial interpretation of the intentions of the parties when the 1.09 acre parcel was created. The Board of Appeals should rule that any decision by the Circuit Court for Baltimore County must comply with the BCZR which limits the density to 2 units on the 16.846 total acreage owned by Mrs. Holland immediately prior to the creation of the 1.09 acre parcel.

However, if the Board of Appeals chooses to render a decision on the merits of this case, it must be decided with the same density limitation. That is, the disputed density unit can be attributed to either the owner of the remaining 15.765 acre parcel or the owner of the 1.09 acre parcel. There can be no other interpretation of the R.C. 2 density legislation as applied to the subject site.

As to the weight of the evidence, the Board must review the testimony and the applicable zoning procedures. Neither party has established that a formal procedure or action was required of either the grantor or the grantee at the time of the execution of the deed to confirm the density attributable to the creation of the 1.09 acre lot. The evidence did indicate that this parcel was created under Section 26-170 of the Baltimore County Code since there was no evidence of compliance with the subdivision requirements as found in the Development Regulations in Section 1B01.3A3 of BCZR. It is not clear whether a subdivision for agricultural purposes implies a non-density

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transfer. However, a transfer under Section 26-170 which provides for an exemption from the development regulations appears to be evidence of the agricultural purpose intended by the parties at the time that the subject parcel was created. As stated, there was evidence from a witness for Protestants that the Baltimore County Zoning Office has required a Petition for Special Hearing to establish a non-density transfer. The evidence was not clear as to whether this practice was in effect in 1983 when the deed to the subject site was executed. There is no specific zoning regulation which requires a Special Hearing. Nor does the Zoning Commissioner's Policy Manual mandate a Special Hearing, although it recognizes that such a Petition is permitted to establish a non-density transfer.

At the hearing in this matter, the Office of People's Counsel did not favor either party as the recipient of the disputed density unit. It assumed the position at the hearing, and reaffirms in this Memorandum, that the R.C. 2 density legislation permits only two density units for the 16.846 acre parcel. The Board must resolve, from the evidence presented, and the inferences drawn from the intent of the applicable Zoning Regulations and Baltimore County Code Regulations, the intentions of the parties at the time of the transaction. This Office does advocate that the intent of the R.C. 2 legislation, and the density attributable to R.C. 2 zoned land, must be upheld by a decision which limits the density attributable to the 16.846 parcel to two units. The Board can award two density units to the 16.846 parcel and rule the 1.09 parcel as a non-density lot, or award one density unit to the 16.846 parcel and one density unit to the 1.09 parcel.

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Respectfully submitted,

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Charles S. Dinitio
CHARLES S. DINITIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 867-2188

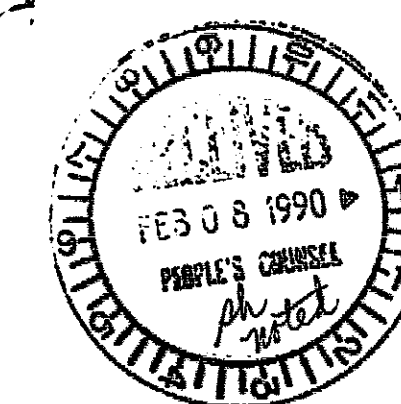
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2 day of June, 1994, a copy of the foregoing People's Counsel's Memorandum was mailed to Paul A. Harper, Esquire, 7206 Belair Road, Baltimore, MD 21206, attorney for Elizabeth Hendrickson, and to Mark P. Hanley, Esquire, 206 Washington Avenue, Towson, MD 21204, attorney for George S. Beck and George R. Beck.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

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PCF1 ✓
PM2 ✓
88-490-SPH

IN THE MATTER OF THE APPLICATION	*	
OF STEVEN H. GUDEMAN, ET UX	*	IN THE
FOR A PETITION FOR SPECIAL HEARING	*	
ON PROPERTY LOCATED ON THE SOUTH	*	CIRCUIT COURT
OF STOCKTON ROAD	*	
STEVEN H. GUDEMAN	*	FOR
AND	*	
BETTY J. GUDEMAN	*	BALTIMORE COUNTY
APPELLANTS	*	
AND	*	89 CG 911
THE PEOPLE'S COUNSEL FOR BALTIMORE	*	
COUNTY	*	

OPINION AND ORDER

This matter came before the court from a decision of the Board of Appeals of Baltimore County dated February 16, 1989 which reversed the Deputy Zoning Commissioner and found that the existence of a public road did not create two parcels on the land in question and that these land areas must be considered as one R.C. 2 parcel.

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IN THE MATTER OF
THE APPLICATION OF
STEVEN H. GUDMAN, ET UX
FOR A PETITION FOR SPECIAL
HEARING ON THE PROPERTY LOCATED
ON THE SOUTH SIDE OF STOCKTON
ROAD, SOUTH WEST CORNER CARROLL
MILL ROAD, 2200 STOCKTON ROAD
10th ELECTION DISTRICT - BALTIMORE COUNTY
3rd COUNCILMANIC DISTRICT - CASE NO.: 98-490-SPH

OPINION

This case comes before the Board on appeal from an Order of the Deputy Zoning Commissioner granting the Petition for a Special Hearing to approve the transfer of density on the subject site. The case was heard this day in its entirety.

The Petitioner presented as his first witness David Ransome, a land surveyor. He testified that he prepared the plat for the original Hearing and the plat with the most recent revisions entered as Petitioner's Exhibit No. 1 in this Hearing. He testified that the property is classified RC 2 and RC 4. He further described the development that has occurred in the general area i.e. Stockton Woods, Hickory Hill, Brookfield and Coopersfield. On cross-examination, he testified that as far as the deed indicates this is just one parcel. It was his contention that the creation of Stockton Road bisecting the property separated this as two parcels each with a permitted density of two residential units. The Petitioner next presented Steven Piper, a local farmer, who testified that he farms a total of 2,160 acres in this area and that he has leased this site to farm in 1988. It was his testimony that the density transfer proposed will keep the farm area in one parcel and would be proper. Robert E. Carney, an attorney who works as a Title Examiner, testified as to the deed searches he had conducted. He especially noted the August 15, 1899 deed which conveyed to the County

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
W/S Fork Rd., 400' S of Bottom Rd. * DEPUTY ZONING COMMISSIONER
(13224 Fork Road) * OF BALTIMORE COUNTY
11th Election District
6th Councilmanic District *
Estate of Rita S. Holland - * Case No. 94-139-SPH
Elizabeth Hendrickson as *
Personal Representative - *
Petitioners * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing filed by the owners of the subject property, the Estate of Rita S. Holland, by its personal representative, Elizabeth Hendrickson, through their attorney Paul A. Harper, Esquire. The Petition as filed seeks approval of the right to subdivide one (1) building lot from an existing 15.76 acre parcel, pursuant to Section 1A01.3.B of the Baltimore County Zoning Regulations (B.C.Z.R.), by confirming the density units available on the subject and neighboring properties and ruling the 1983 conveyance a non-density transfer, all as more particularly described on Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Elizabeth A. Hendrickson as Personal Representative, Patricia H. Walker, Erica Stevens, Rosemary Gomez, and Alvan G. Bammel, owners of property in the surrounding area, and John Staley, Registered Property Line Surveyor. The Petitioners were represented by Paul A. Harper, Esquire. Appearing as a Protestant in the matter was George Beck, an adjoining property owner. Mr. Beck was represented by Mark P. Hanley, Jr., Esquire.

Testimony indicated that the subject property, known as 13224 Fork Road, consists of 15.756 acres, more or less, zoned R.C. 2 and is improved with a single family dwelling and detached garage. The Petition-

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ers are desirous of subdividing the property to create one lot of 3.56 acres more or less containing the existing improvements and the remaining 11.74 acres declared as a buildable lot. At issue is the 1983 transfer of 1.09 acres to George R. Beck, the Protestant in this matter. Mr. Beck argues that the 1.09 acres he acquired contained one density unit.

Inasmuch as this property involves R.C. 2 zoned land, it is necessary to give a brief historical breakdown of the property as it existed on November 25, 1979. Testimony revealed that in November 1979 Ms. Holland owned the subject 15.756 acre parcel and the 1.09 acre lot which was eventually transferred to Mr. Beck. There were two density units associated with the entire parcel pursuant to the R.C. 2 zoning regulations which were in effect at that time. By deed dated December 10, 1983, a copy of which has been marked as Petitioner's Exhibit 3, Ms. Holland transferred the 1.09 acre lot to Mr. Beck. Mr. Beck argues that his property was conveyed with a density unit and that he is entitled to construct a house thereon for his son. It should be noted that Mr. Beck resides on an adjoining 2.00 acre lot which was transferred to him by Ms. Holland in December 1976. The issue then becomes whether Ms. Holland's transfer of the 1.09 acre parcel to Mr. Beck included a density unit, thereby leaving one density unit remaining, which by virtue of the existing improvements, has already been utilized.

Testimony revealed that although Ms. Holland transferred the 1.09 acre lot to Mr. Beck in 1983, that property continued to be farmed by a Mr. Brooks from the time of the transfer to Mr. Beck until the death of Ms. Holland in 1993. Furthermore, evidence revealed that Ms. Holland continued to pay the real estate tax associated with this 1.09 acre parcel of land during that 10-year period. Also, the rents paid by Mr. Brooks to

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farm the land were paid to Ms. Holland and not to Mr. Beck who was the owner at that time.

The attorney for Ms. Hendrickson and the Estate argued that in 1983, Mr. Beck acquired the 1.09 acre parcel for purposes of adding space to his rear yard. As previously noted, this lot is adjacent to the 2.00 acre parcel on which Mr. Beck resides. It does appear from Petitioner's Exhibit 1 that the additional property purchased in 1983 was for purposes of adding additional land to Mr. Beck's holdings. Mr. Beck argued that this is not the case and that he purchased the lot for building purposes.

It should be noted that this 1.09 acre transfer in 1983 was, in fact, an illegal subdivision. There was no special hearing requested by either Mr. Beck or Ms. Holland at that time for the transfer of this lot. Further, there was no contract of sale entered into between the parties, other than the oral agreement made between them as to the purchase of this lot. The only evidence of the transfer was by a deed dated December 10, 1983; no other written documents exist. It should also be noted that the subject deed was not recorded until 1990, some seven years later.

Based upon the testimony and evidence presented, I find that the transfer of the 1.09 acre parcel to Mr. Beck in 1983 was not for density purposes and did not include a density unit therewith. Given the fact that Mr. Beck already resided on the adjoining 2.00 acre lot, I find that Mr. Beck was simply adding additional acreage to his property. It should be noted that Mr. Beck and Ms. Holland did not file the appropriate documentation to legally transfer this lot. Instead, a deed was executed and an exchange of money took place, but nothing more. Furthermore, in order to take advantage of the low, agricultural tax associated with this lot and for whatever other reasons which are unknown to me at this time, the

- 3 -

subject deed was not recorded until some seven years after the money was paid. Therefore, I find that Mr. Beck did not acquire the 1.09 acre lot with a density unit and, as such, the two density units remain with the 15.756 acre parcel.

Although the 1.09 acre lot does not contain any density unit and is therefore not a buildable lot, pursuant to the B.C.Z.R., it should be noted that the 2.00 acre parcel on which Mr. Beck resides contains two density units. Should Mr. Beck desire to have his son build a home on the 1.09 acre parcel adjacent to his property, he need only file a Petition for Special Hearing to transfer one of the two density units associated with his 2.00 acre parcel to the 1.09 acre lot.

After due consideration of the testimony and evidence presented, the relief requested in the Petition for Special Hearing should be granted. I find that the property of the Estate enjoys two density units, one of which shall be associated with the 3.56 acre parcel to be created pursuant to this Order, and the other with the remaining 11.74 acre parcel. Therefore, the Petitioners are permitted to sell this 11.74 acre parcel as a buildable lot. In addition, the relief requested will not be detrimental to the public health, safety, and general welfare and meets the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 16th day of November, 1993 that the Petition for Special Hearing to approve the right to subdivide one (1) building lot from an existing 15.76 acre parcel, pursuant to Section 1A01.3.B of the

Baltimore County Zoning Regulations (B.C.Z.R.), by confirming the density units available on the subject and neighboring properties and ruling the 1983 conveyance a non-density transfer, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The 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, the relief granted herein shall be rescinded.
- 2) Pursuant to Section 502.2 of the B.C.Z.R., a new deed incorporating a reference to this case and the restrictions and conditions set forth herein shall be recorded among the Land Records of Baltimore County within sixty (60) days of the date of this Order and a copy of the recorded deed shall be forwarded to the Zoning Commissioner for inclusion in the case file.

IT IS FURTHER ORDERED that the The Estate of Rita S. Holland contains two density units, and as such, the 3.56 acre parcel containing the existing improvements enjoys one density unit and the 11.74 acre parcel contains the remaining density unit and as such, is a buildable lot; and,

IT IS FURTHER ORDERED that the 1.09 acre lot acquired by Mr. Beck in 1983 contains no density units and is therefore unbuildable.

THK:bjs

Timothy M. Ruzicko
TIMOTHY M. RUZICKO
Deputy Zoning Commissioner
for Baltimore County

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Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



November 18, 1993

(410) 887-4386

Paul A. Harper, Esquire
7206 Belair Road
Baltimore, Maryland 21206

RE: PETITION FOR SPECIAL HEARING
W/S Fork Road, 400' S of Bottom Road
(13224 Fork Road)
11th Election District - 6th Councilmanic District
The Estate of Rita S. Holland and Elizabeth Hendrickson as
Personal Representative - Petitioners
Case No. 94-139-SPH

Dear Mr. Harper:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy M. Ruzicko
TIMOTHY M. RUZICKO
Deputy Zoning Commissioner
for Baltimore County

THK:bjs

cc: Mark P. Hanley, Jr., Esquire
206 Washington Avenue, P.O. Box 5506, Towson, Md. 21204

Mr. John Staley
K.L.S. Consultants, Inc., 102 N. Main Street, Bel Air, Md. 21014

People's Counsel

Dele

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Petition for Special Hearing
94-139-SPH
to the Zoning Commissioner of Baltimore County
for the property located at 13224 Fork Rd. Baldwin, MD 21013
which is presently zoned RC2

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property located in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commission should approve a right to subdivide 1 building lot from the existing 15.76 acre parcel, based on B.C.Z.R. Sec. 1A01.3, B, by confirming the density units available on the subject and neighboring properties and ruling the 1983 conveyance a non-density transfer.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to hold use to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Consent Petitioner/Assessor

(Type or Print Name)

Signature

Address

City

State

Zip Code

Attorney for Petitioner

Paul A. Harper

(Type or Print Name)

Signature

7206 Bel Air Rd

882-6330

Address

Baltimore, MD

City

State

Zip Code

Legal Owner(s)

Estate of Rita S. Holland

Elizabeth Hendrickson

Elizabeth Hendrickson P.R.

Elizabeth Hendrickson

Signature

1419 Larch Rd.

Severna, MD

John Staley, F.L.S.

102 N. Main St.,

Baltimore, MD

Signature

Address

City

State

Zip Code

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137
Proposed
ZONING DESCRIPTION

94-139-SPH

FOR

13224 FORK ROAD, BALDWIN, MD

ELECTION DISTRICT NO. 11 COUNCILMANIC DISTRICT NO. 6

Beginning at a point on the SOUTH SIDE OF BOTTOM ROAD (which is now paved 16' wide) at a distance of 1070' WEST OF FORK ROAD (which is now paved 20' wide).

Being the same as all of the land remaining of that parcel of land as recorded in Deed Liber E.H.K. JR. NO. 5607 Folio 207 within the following courses and distances

S 46°49'41" E 70.00', S 21°19'53" E 240.05'
N 63°38'50" E 240.21', N 28°09'10" W 50.00'
N 63°38'03" E 195.00', S 42°26'10" E 102.55'
S 14°39'48" E 468.83', S 75°00'00" W 274.62'
S 64°14'54" W 685.30', N 39°29'54" W 245.83'
N 28°17'16" E 767.09', N 51°34'54" W 73.70'
N 46°10'59" E 43.28', S 46°49'41" E 12.64'

TO THE POINT OF BEGINNING CONTAINING 64.44 ACRES MORE OR LESS.

137
Proposed
ZONING DESCRIPTION

FOR 94-139-SPH

13224 FORK ROAD, BALDWIN, MD

ELECTION DISTRICT NO. 11 COUNCILMANIC DISTRICT NO. 6

Beginning at a point on the WEST SIDE OF FORK ROAD (which is now paved 20' wide) at a distance of 400' SOUTH OF BOTTOM ROAD (which is now paved 16' wide).

Being the same as all of the land remaining of that parcel of land as recorded in Deed Liber E.H.K. JR. NO. 5607 Folio 207 within the following courses and distances

N 59°39'58" E 30.00', S 29°46'14" E 84.50',
S 34°06'12" E 96.17', S 30°20'17" E 135.19',
S 67°26'57" W 547.80', N 42°26'10" W 102.55',
N 30°52'33" W 102.91', N 61°42'33" E 156.13',
N 30°48'12" W 380.85', N 46°10'59" E 24.63',
S 30°48'12" E 298.75', N 59°39'58" E 350.05'

TO THE POINT OF BEGINNING CONTAINING 1.1 ACRES MORE OR LESS.

Existing
ZONING DESCRIPTION

94-139-SPH

FOR

13224 FORK ROAD, BALDWIN, MD

ELECTION DISTRICT NO. 11 COUNCILMANIC DISTRICT NO. 6

Beginning at a point on the WEST SIDE OF FORK ROAD (which is now paved 20' wide) at a distance of 400' SOUTH OF BOTTOM ROAD (which is now paved 16' wide).

Being the same as all of the land remaining of that parcel of land as recorded in Deed Liber E.H.K. JR. NO. 5607 Folio 207 within the following courses and distances

N 59°39'58" E 30.00', S 29°46'14" E 84.50',
S 34°06'12" E 96.17', S 30°20'17" E 135.19',
S 67°26'57" W 547.80', S 14°39'48" E 468.83',
S 75°00'00" W 274.62', S 64°14'54" W 685.30',
N 39°29'54" W 245.83', N 28°17'16" E 767.09',
N 51°34'54" W 73.70', N 46°10'59" E 43.28',
S 46°49'41" E 767.09', N 61°42'33" E 156.13',
N 30°52'33" W 102.91', N 61°42'33" E 156.13',
N 30°48'12" W 380.85', N 46°10'59" E 24.63',
S 30°48'12" E 298.75', N 59°39'58" E 350.05'

TO THE POINT OF BEGINNING CONTAINING 1.1 ACRES MORE OR LESS.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11th Date of Posting: 12/15/93
Posted for: Special Hearing
Petitioner: Elizabeth Hendrickson, R.R. 1, Rte. S. Holland
Location of property: 13224 Fork Rd., W.D., 400' S. Bottom Rd.
Location of Sign: Being 100' W. of property line, 400' S. of Bottom Rd.
Remarks:
Posted by: [Signature] Date of return: 12/22/93
Number of Signs: 7

CERTIFICATE OF PUBLICATION

TOWSON, MD. 12/17/93

THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 12/17/93.

THE JEFFERSONIAN,

A. Hendrickson
LEGAL AD. - TOWSON

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Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6180
Item Number 137
Taken in by [Signature]
94-139-SPH

9-24-93
date of Rite S. Holland
J. Z. Hendrickson, Petitioner

13224 Fork Rd.

750 - Res Special Hearing - \$50.00
880 - Sign & Posting - 35.00
Total \$85.00

185.00
Please Make Checks Payable To: Baltimore County

Cashier Validation

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CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11th Date of Posting: 12/29/93
Posted for: Appeal
Petitioner: Estate of Rite S. Holland & Elizabeth Hendrickson
Location of property: 13224 Fork Rd., W.D., 400' S. Bottom Rd.
Location of Sign: Being 100' W. of property line, 400' S. of Bottom Rd.
Remarks:
Posted by: [Signature] Date of return: 12/30/93
Number of Signs: 1

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Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3363

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

[Signature]
ARNOLD J. JARLAN, DIRECTOR

For newspaper advertising:

Item No.: 137
Petitioner: K.L.S. CONSULTANTS, INC.
Location: WEST SIDE FORK ROAD, 400' SOUTH BOTTOM RD.
(#19224)
NAME: K.L.S. CONSULTANTS, INC.
ADDRESS: 102 N. MAIN ST.
BEL AIR, MD 21014
PHONE NUMBER: 410-679-1441

MICROFILMED

AJ:ggg

(Revised 04/09/93)

TO: POTWENT PUBLISHING COMPANY
October 7, 1993 Issue - Jeffersonian

Please forward billing to:
K.L.S. Consultants, Inc.
102 N. Main Street
Bel Air, Maryland 21014
410-679-1441

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204.

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-139-SPH (Item 137)
13224 Fork Road
W.D. Fork Road, 400' S. of Bottom Road
11th Election District - 6th Councilmanic
Petitioner(s): Elizabeth Hendrickson, Rite S. Holland
HEARING: TUESDAY, NOVEMBER 9, 1993 at 11:00 a.m. in Rm. 106, County Office Building.

Special Hearing to approve the right to subdivide one building lot by confirming the density units available on the subject and neighboring properties and ruling the 1993 ordinance a non-density transfer.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE REMINDERED ACCESSIBLE, FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3363.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR RECORD, PLEASE CALL 887-3363.

MICROFILMED

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-139-SPH (Item 137)

13224 Fork Road
W/S Fork Road, 400' S of Bottom Road
11th Election District - 6th Councilmanic District

Petitioner(s): Elizabeth Hendrickson, PE Estate Rita S. Holland

HEARING: TUESDAY, NOVEMBER 9, 1993 at 11:00 a.m. in Rm. 106, County Office Building.

Special Hearing to approve the right to subdivide one building lot by confirming the density units available on the subject and neighboring properties and ruling the 1983 conveyance a non-density transfer.

Arnold Jablon
Director

cc: Elizabeth Hendrickson
Paul A. Harper, Esq.
John Stanley, K.L.S. Consultants

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3351.

MICROFILMED

NOTICE OF ASSIGNMENT
NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 94-139-SPH
THE ESTATE OF RITA S. HOLLAND /ELIZABETH HENDRICKSON, PERSONAL REPRESENTATIVE - Petitioner W/s Fork Road, 400' S of Bottom Road (13224 Fork Road) 11th Election District 6th Councilmanic District

SPH -To subdivide one bldg. lot from existing 15.76 acre parcel by confirming density units available on subject and neighboring properties and ruling 1983 conveyance a non-density transfer.

11/18/93 -D.Z.C.'s Order in which Petition for Special Hearing was GRANTED.

ASSIGNED FOR: TUESDAY, MARCH 22, 1994 at 10:00 a.m.

cc: Mark P. Hanley, Esquire Counsel for Appellant /Protestant
George S. Beck Appellant /Protestant
George R. Beck

Mr. John Staley /K.L.S. Consultants

Paul A. Harper, Esquire Counsel for Petitioner
Elizabeth Hendrickson, P.R. Petitioner
/Estate of Rita Holland

Ms. Rosemary Gomez

People's Counsel for Baltimore County

P. David Fields
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

RECEIVED
JAN 14 1994
ZADM

Printed with Soy-based Ink on Recycled Paper

NOTICE OF ASSIGNMENT
NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 94-139-SPH
THE ESTATE OF RITA S. HOLLAND /ELIZABETH HENDRICKSON, PERSONAL REPRESENTATIVE - Petitioner W/s Fork Road, 400' S of Bottom Road (13224 Fork Road) 11th Election District 6th Councilmanic District

SPH -To subdivide one bldg. lot from existing 15.76 acre parcel by confirming density units available on subject and neighboring properties and ruling 1983 conveyance a non-density transfer.

11/18/93 -D.Z.C.'s Order in which Petition for Special Hearing was GRANTED.

ASSIGNED FOR: TUESDAY, MARCH 22, 1994 at 10:00 a.m.

cc: Mark P. Hanley, Esquire Counsel for Appellant /Protestant
George S. Beck Appellant /Protestant
George R. Beck

Mr. John Staley /K.L.S. Consultants

Paul A. Harper, Esquire Counsel for Petitioner
Elizabeth Hendrickson, P.R. Petitioner
/Estate of Rita Holland

Ms. Rosemary Gomez

People's Counsel for Baltimore County

P. David Fields
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

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Printed with Soy-based Ink on Recycled Paper

NOTICE OF POSTPONEMENT & REASSIGNMENT
NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 94-139-SPH
THE ESTATE OF RITA S. HOLLAND /ELIZABETH HENDRICKSON, PERSONAL REPRESENTATIVE - Petitioner W/s Fork Road, 400' S of Bottom Road (13224 Fork Road) 11th Election District 6th Councilmanic District

SPH -To subdivide one bldg. lot from existing 15.76 acre parcel by confirming density units available on subject and neighboring properties and ruling 1983 conveyance a non-density transfer.

11/18/93 -D.Z.C.'s Order in which Petition for Special Hearing was GRANTED.

which was scheduled for hearing on March 22, 1994 has been POSTPONED at the request of Counsel for Appellant/Protestant due to schedule conflict & unavailability of expert witness; and has been

REASSIGNED FOR: TUESDAY, APRIL 12, 1994 at 10:00 a.m.

cc: Mark P. Hanley, Esquire Counsel for Appellant /Protestant
George S. Beck Appellant /Protestant
George R. Beck

Mr. John Staley /K.L.S. Consultants

Paul A. Harper, Esquire Counsel for Petitioner
Elizabeth Hendrickson, P.R. Petitioner
/Estate of Rita Holland

Ms. Rosemary Gomez

People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

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October 29, 1993

Paul A. Harper, Esquire
7206 Belair Road
Baltimore, Maryland 21206

RE: Case No. 94-139-SPH, Item No. 137
Petitioner: Elizabeth Hendrickson, Personal Representative
for Estate of Rita S. Holland
Petition for Special Hearing

Dear Mr. Harper:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on September 24, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

Zoning Plans Advisory Committee Comments
Paul A. Harper, Esquire (Item 137)
Date: October 29, 1993
Page 2

- Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the zoning commissioner will deny the petition due to errors or incompleteness.
- Attorneys, engineers and applicants who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72-hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the forfeiture loss of the filing fee.

If you have any questions concerning the enclosed comments, please feel free to contact Charlotte Minton in the zoning office at 887-3391 or the commenting agency.

Sincerely,

W. Carl Richards, Jr.
W. Carl Richards, Jr.
Zoning Coordinator

WCR:cm

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O. James Lighthizer
Secretary
Hal Kassoff
Administrator

Ms. Charlotte Minton
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
John Contestabile, Chief
Engineering Access Permits
Division

BS/

My telephone number is _____
Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2288 Statewide Toll Free
Mailing Address: P.O. Box 717 • Baltimore, MD 21208-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

MICROFILMED

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management
DATE: October 4, 1993

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
Item Nos. 130, 133, 134, 135, 136, 137, 139, 140 and 141.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: Jeffrey M. Long
Division Chief: Pat Keller

PK/JL:lw

ZAC.133/PZONE/ZAC1

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Baltimore County Government
Department of Permits and Licenses



111 West Chesapeake Avenue
Towson, MD 21204

October 8, 1993

(410) 887-3610

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

Zoning Agenda: Meeting of October 4, 1993

Joseph Michael Neukam and Audrey E. Neukam
#2001 Codd Avenue
130 (RT)

Paul Goodman
#1002 Reisterstown Road
+131 (RT)

Colonial Village Company
#7002 Reisterstown Road - Colonial Village Shopping Ctr.
+132 (JRA)

Iron City Sash and Door
#2202 Halethorpe Farm Road
+133 (JLL)

David Wayne Johnson and Tera Lee Johnson
#11 Horse Chestnut Court
#8 134 (RT)

Edmund J. Cardoni and Teena L. Cardoni
#232 Antietam Road
+135 (JCM)

Charles D. Lowe and Sharon A. Lowe
#1900 Nineen Drive
136 (JLL)

Elizabeth Hendrickson, Personal Representative for the Estate of
Rita S. Holland
#13224 Fork Road
137 (JJS)

The Pines at Deep Run Limited Partnership
#5, 6, 7, & 8 Deep Run Court
+ 138 (MJK)

Robin Barbagallo and Francis S. Barbagallo, Jr.
#138 (JJS) Green Lane



Jerome Leibowitz and Betty I. Liebowitz
#3510 Gardenview Road
+140 (JLL)

A. LeRoy Metz and Jean L. Metz
#9106 Hines Road
+141 (JRA)

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

Reviewed: *Robert P. Sauerwald* / *Kell*
Lieutenant Robert P. Sauerwald
Fire Prevention Bureau
(887-4880)

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

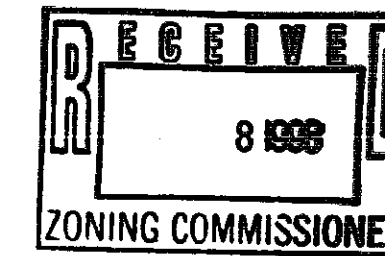
INTER-OFFICE CORRESPONDENCE

November 3, 1993

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management

FROM: J. Lawrence Pilson *JLP/MP*
Development Coordinator, DEPRM *94-139-SPH*

SUBJECT: Zoning Item #137 - Hendrickson Property
13224 Fork Road
Zoning Advisory Committee Meeting of October 4, 1993



The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Environmental Impact Review

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

Any development must comply with Baltimore County's Forest Conservation Regulations.

Agricultural Preservation Program

This proposal raises concern in that the proposal exceeds the BCZR 1A01.3 limits on the amount of subdivision permitted on RC 2 properties. The proposal effectively subdivides one property into 4 parcels instead of 2.

The effect of the 1983 transfer of property is that it precludes the ability to have the remaining dwelling placed on Fork Road. This location would minimize the loss of productive agricultural land and could be compatible with the location of adjoining homes. An additional concern regards the ultimate use of the 1.09 acre parcel.

From the standpoint of prime and productive soils and maintaining low density in Master Plan designated Agricultural Protection Areas, the following are recommended as conditions if the request is granted:

1. In order to best protect the remaining prime and productive soils and the agricultural nature of the area, no further subdivision of these parcels should be permitted.

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2. The location of a dwelling on the 11.74 acre tract should be in the forested part of this site and not on the fallow farm field which is characterized by prime and productive soils.
3. With respect to maintaining low density in the area and assuring that the non-density transfer does not lead to development which otherwise would not have occurred, the 1.09 acre parcel should be labeled "Non-density parcel not for building purposes." In the event that the owner wishes to change that designation at some future time, he/she should be required to have a Special Hearing.

JLP:DL:WL:sp

HENDRICK/DEPRM/TXTSBP

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

December 17, 1993

Paul A. Harper, Esquire
7206 Belair Road
Baltimore, MD 21206

RE: Petition for Special Hearing
W/S Fork Road, 400' S of Bottom Road
(13224 Fork Road)
11th Election District
6th Councilmanic District
The Estate of Rita S. Holland and
Elizabeth Hendrickson as Personal
Representatives-Petitioner
Case No. 94-139-SPH

Dear Mr. Harper:

Please be advised that an appeal of the above-referenced case was filed in this office on December 15, 1993 by Mark P. Hanley, Esquire. All materials relative to the case have been forwarded to the Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to contact Julie Winiarski at 887-3391.

Sincerely,

Arnold Jablon

ARNOLD JABLON
Director

AJ:jaw

cc: Mr. John Staley
People's Counsel

APPEAL

Petition for Special Hearing
W/S Fork Road, 400' S of Bottom Road
(13224 Fork Road)
11th Election District - 6th Councilmanic District
The Estate of Rita S. Holland and Elizabeth Hendrickson as
Personal Representative - PETITIONER
Case No. *94-139-SPH*

Petition(s) for Special Hearing

Description of Property

Certificate of Posting

Certificate of Publication

Zoning Plans Advisory Committee Comments

Petitioner(s) and Protestant(s) Sign-In Sheets

Petitioner's Exhibits: 1 - Plat to Accompany Special Hearing
2 - Deed, Liber 5840, Page 404
3 - No Title Search, Liber 8554, Page 689
4 - Deed, Liber 8704, Page 238
5 - One Photograph
6 - Findings of Fact and Conclusions of Law
for Case No. 94-82-A

Protestant's Exhibits: 1 - Letter to Mr. Mark P. Hanley dated
March 8, 1993

Deputy Zoning Commissioner's Order dated November 18, 1993 (Granted)

Notice of Appeal received on December 15, 1993 from Mark P. Hanley,
Jr., Esquire

c: Mark P. Hanley, Jr., Esquire, 206 Washington Avenue, P.O. Box
5506, Towson, MD 21204

Paul A. Harper, Esquire, 7206 Belair Road, Baltimore, MD 21206
Mr. John Staley, K.L.S. Consultants, Inc., 102 N. Main Street,
Bel Air, MD 21014

People's Counsel of Baltimore County
Rm. 104, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
Timothy M. Kotroco, Deputy Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of ZADM

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Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

September 29, 1993

Mr. Mark P. Hanley, Jr., Esquire
206 Washington Avenue
P.O. Box 5506
Towson, MD 21204

RE: George S. Beck Property
Fork Rd near Bottom Rd
11th Election District

Dear Mr. Hanley:

It has come to my attention that there has been a petition for a Special Hearing filed with this office. The hearing is to request that the above referenced property be declared non-density or unbuildable (Item 137). In light of this fact, this office is of the opinion that this property should not be granted a conditional building permit.

Should you have any questions, please do not hesitate to contact me at 887-3391.

Sincerely,

Catherine A. Milzon
CATHERINE A. MILZON
Planner I

CAM/jaw

c: Item 137
94-139-SPH (Item 82)

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1/13/94 -Notice of Assignment for hearing scheduled for Tuesday, March 22, 1994 at 10:00 a.m. sent to following:

Mark P. Hanley, Esquire
George S. Beck
George R. Beck
Mr. John Staley /K.L.S. Consultants
Paul A. Harper, Esquire
Elizabeth Hendrickson, P.R.
/Estate of Rita Holland
Ms. Rosemary Gomez
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

2/22/94 -Request for postponement from M. Hanley, Esquire, Counsel for Appellants / Protestants; long-planned vacation and unavailability of an expert witness.

3/01/94 -PP granted; notices to be sent.

3/02/94 -Notice of PP and Reassignment sent to parties; case rescheduled to Tuesday, April 12, 1994 at 10:00 a.m.

4/12/94 -Hearing concluded before the Board; closing memos due from counsel 6/03/94; to be set for open deliberation.

-Notice of Deliberation sent to parties; scheduled for Thursday, June 16, 1994 at 10:00 a.m. /for purpose of deliberation only.

Memos received: *6/02/94* M. Hanley, Esq.
6/07/94 *(initials)* Harper, Esq.
6/02/94 P.C.

6/07/94 -T/C to Paul Harper, Esq. Board has not received memo from him (due Friday, 6/03/94); he advised that his closing memo was mailed to the Board and appropriate parties on 6/02/94; he will hand-deliver a copy to us within hour. (6/07/94; 10:25 a.m.)

6/07/94 -Copy of Mr. Harper's memo received this date; copies sent to all Board members, as well as copies of Hanley and PC memos; copy of deliberation notice also sent to members (H.C.B.)

6/16/94 -Deliberation concluded; Written opinion and order to be signed - hearing granted by majority decision of Clark & Buchholz; dissent.



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

April 12, 1994

NOTICE OF DELIBERATION

As indicated would be done at the conclusion of the hearing on April 12, 1994, the Board of Appeals has scheduled the following date and time for deliberation in the matter of:

ESTATE OF RITA S. HOLLAND /ELIZABETH
HENDRICKSON, P.R. -PETITIONER
CASE NO. 94-139-SPH

DATE AND TIME : Thursday, June 16 1994 at 10:00 a.m.

LOCATION : Room 48, Basement, Old Courthouse

cc: Mark P. Hanley, Esquire Counsel for Appellant /Protestant
George S. Beck Appellant /Protestant
George R. Beck
Mr. John Staley /K.L.S. Consultants
Paul A. Harper, Esquire Counsel for Petitioner
Elizabeth Hendrickson, P.R. Petitioner
/Estate of Rita Holland
Ms. Rosemary Gomez
People's Counsel for Balto. County
P. David Fields
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

MICROFILMED

Kathleen C. Weidenhammer
Administrative Assistant

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: The Estate of Rita S. Holland /Elizabeth
Hendrickson, Personal Representative
Case No. 94-139-SPH

DATE : June 16, 1994 @ 10:00 a.m.

BOARD /PANEL : William F. Hackett (WH)
C. William Clark (CWC)
Harry E. Buchheister, Jr. (HEB)

SECRETARY : Kathleen C. Weidenhammer
Administrative Assistant

Among those present at the deliberation were Paul A. Harper, Esquire, on behalf of Petitioner; Mark P. Hanley, Esquire, on behalf of Appellant /Protestant; and Carole S. Demillo, Deputy People's Counsel.

PURPOSE --to deliberate issues and matter of petition for special hearing presented to the Board; testimony and evidence taken at hearing on April 12, 1994. Written Opinion and Order to be issued by the Board.

Opening comments by Chairman Hackett as to case name and number, and issues to be deliberated in this matter; for purpose of deliberation only in compliance with law.

CWC: Legal problem in his mind; accurately summarized by Deputy People's Counsel; discussed authority of Board with regard to this type of situation; issue is to determine what density units are available on subject piece of property; reviewed evidence and testimony received; cited lack of expressed intention on the part of parties when parcel bought by Mr. Beck; found that petition for special hearing should be granted; deputy zoning commissioner affirmed; estate has retained density unit on subject property.

Summary: Petition for Special Hearing should be GRANTED.

HEB: Reviewed his notes regarding testimony and evidence received; also reviewed history of 1.09-acre parcel transferred by deed to Mr. Beck; his conclusion that density unit was not included in the sale and special hearing to grant buildable lot on remaining Holland acreage should be granted.

Summary: Concurs with CWC; Petition for Special Hearing should

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Deliberation /The Estate of Rita S. Holland 94-139-SPH

be GRANTED.

WH: Also reviewed history of property, beginning in 1983 when Mrs. Holland conveyed to Mr. Beck 1.09-acre lot; noted that 1.09 acres is relevant number; Mr. Beck paid \$15,000 for this lot in agricultural condition; believes that density was implied by fact that conveyance was more than one acre; buildable lot was taken for granted; no transfer of density involved in this petition; density unit went with site when it was sold.

Summary: Dissents from opinion of CWC and HEB; believes petition should be denied and that Mr. Beck bought lot with one density unit. Will therefore write dissenting opinion.

Closing statement by Chairman Hackett: Board will issue written Opinion and Order that petition for special hearing filed by The Estate of Rita Holland will be granted; dissenting opinion to be written by WH and issued at time of majority Opinion and Order granting the petition.

Note: appellate period runs from date of written Opinion and Order and not from today's date.

Respectfully submitted,

Kathleen C. Weidenhammer
Administrative Assistant

2

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BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: W. Hackett /B. Clark /H. Buchheister DATE: June 7, 1994

FROM: Kathi

SUBJECT: Scheduled Deliberation --
The Estate of Rita S. Holland /Elizabeth Hendrickson,
Personal Representative, Petitioner
Case No. 94-139-SPH

Regarding the subject matter, this will confirm the public deliberation which has been scheduled for Thursday, June 16, 1994 at 10:00 a.m. Attached for your review are copies of the following:

- 1) People's Counsel's Memorandum.
- 2) Memorandum filed by Mark P. Hanley, Jr., Esquire, on behalf of George S. Beck, Appellant /Protestant.
- 3) Memorandum of Petitioner filed by Paul A. Harper, Esquire.

Should you have any questions regarding the above, please call me. I've also attached a copy of the Notice of Deliberation.

Attachments

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Baltimore County Government
Department of Environmental Protection
and Resource Management

401 Bosley Avenue
Towson, MD 21204

July 27, 1994

(410) 887-3733

Ms. Margaret Worrall
The Valleys Planning Council, Inc.
212 Washington Avenue
P.O. Box 5402
Towson, Maryland 21285-5402

Dear Margaret:

I received your memorandum regarding a development concept for the Montanye property and hope to clarify some issues which will hopefully allay your concerns.

As of this date, there have been efforts by the Planning Office, with input from this Department, regarding stream buffer and agricultural issues; however, all these comments are advisory only until a formal plan is submitted. Therefore, although from an agricultural protection standpoint the proposal has merit, a final plan has not been submitted, and we have yet to have the opportunity to hear the community comments which will be generated during the development process.

With respect to the issues you refer to in Case No. 94-139-SPH, as with all plans, this plan will have to be reviewed and approved as being in accordance with the Baltimore County Zoning Regulations. We are aware that the plan may need to go through a special hearing as provided for in the Zoning Office Policy Manual RSD-10.

Thank you for making your concerns known early in the process so that any potential issues may be resolved. I would hope that Mr. Montanye will provide for an opportunity for you and representatives of the Glyndon Community Association to review the concept plan at the earliest occasion.

Sincerely,
Wallace S. Lippincott, Jr.
Program Administrator

c: Jack Dillon
Carlyle Montanye
Carl Richards

fc:\montanye.doc\wsl

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ZADM



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

August 22, 1994

Paul A. Harper, Esquire
7206 Belair Road
Baltimore, MD 21206

RE: Civil Action No. 94-CV-07650
THE ESTATE OF RITA S. HOLLAND,
ELIZABETH HENDRICKSON, P.R.

Dear Mr. Harper:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on August 18, 1994 in the Circuit Court for Baltimore County from the majority decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 89/134/94-CV-07650.

Enclosed is a copy of the Certificate of Notice, which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Elizabeth Hendrickson, P.R.
/Estate of Rita S. Holland
John Staley /K.L.S. Consultants, Inc.
People's Counsel for Baltimore County
Pat Keller /Planning
Lawrence E. Schmidt /ZADM
W. Carl Richards /ZADM
Docket Clerk /ZADM
Arnold Jablon /ZADM

RECEIVED

ZADM

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IN RE: THE ESTATE OF RITA S. HOLLAND * BEFORE THE
and ELIZABETH HENDRICKSON, * BOARD OF APPEALS
PERSONAL REPRESENTATIVE, *
Petitioner *
W/S Fork Road, 400' S of * OF BALTIMORE COUNTY
Bottom Road (13224 Fork Road) *
11th Election District * Case No: 94-139-SPH
6th Councilmanic District *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final order.

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COUNTY BOARD OF APPEALS
94 JUN 27 PM 2:34

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demillo
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2186

I HEREBY CERTIFY THAT ON THIS 27 day of June, 1994, a copy of the foregoing Entry of Appearance was mailed to Paul A. Harper, Esq., 7206 Belair Road, Balto., MD, 21206, Attorney for Elizabeth Hendrickson; and to Mark P. Hanley, Esq., 206 Washington Avenue, Towson, MD 21204, attorney for George S. Beck and George R. Beck.

Peter Max Zimmerman
Peter Max Zimmerman

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PRM -
DOCKET CLERK

392675

94-139-SPH - The Estate of
S. Holland /Elizabeth Hendrickson,
CCT REVERSES CBA - 8/15/95
(Hon. Alfred L. Brennan, Sr.)

PETITION OF GEORGE S. BECK * IN THE
GEORGE R. BECK *
* CIRCUIT COURT
FOR JUDICIAL REVIEW OF THE *
DECISION OF THE COUNTY BOARD * FOR
OF APPEALS OF BALTIMORE *
COUNTY * BALTIMORE COUNTY

IN THE CASE OF THE ESTATE OF *
RITA S. HOLLAND / ELIZABETH *
HENDRICKSON, P.R. * CASE No.: 94 CV 7650

MEMORANDUM OF OPINION AND ORDER

STATEMENT OF THE CASE

On July 20, 1994 the Board of Appeals approved the subdivision of a 15.756 acre parcel held by the Estate of Rita S. Holland into two lots, each containing one density unit. In approving the subdivision, it was necessary for the board to find that petitioner's 1983 purchase of 1.09 acres carved from this plot did not involve the transfer of a density unit. This case arrives before this Court on appeal from that ruling.

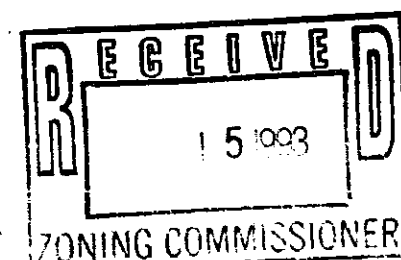
CO-8 11 51 01V56

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LAW OFFICES
MARK P. HANLEY, JR.
206 WASHINGTON AVENUE
P.O. BOX 5506
TOWSON, MARYLAND 21204

TELEPHONE
(410) 823-1174

November 4, 1993



Timothy M. Rotroco, Deputy Zoning Commissioner
for Baltimore County
Office of Planning & Zoning
Suite 113, Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
W/S Fork Road, 400' S of Bottom Road
(13224 Fork Road)
11th Election District-6th Councilmanic District
The Estate of Rita S. Holland and Elizabeth
Hendrickson as Personal Representative - Petitioners
Case No.: 94-139-SPH

Dear Deputy Rotroco:

Please note an appeal of the decision rendered in the above on
November 18, 1993. Enclosed herewith please find my check in the
amount of \$210.00 to cover the cost of said appeal.

Very truly yours,

Mark P. Hanley, Jr.
Mark P. Hanley, Jr.

MPH/jdp
Enclosure(s)
cc: Mr. George S. Beck

12/15/93
ZONING OFFICE

LAW OFFICES
MARK P. HANLEY, JR.
206 WASHINGTON AVENUE
P.O. BOX 5506
TOWSON, MARYLAND 21204

TELEPHONE
(410) 823-1174

August 18, 1994

Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: THE ESTATE OF RITA S. HOLLAND/ELIZABETH HENDRICKSON,
PERSONAL REPRESENTATIVE, PETITIONER
W/S Fork Road, 400' S of Bottom Road
(13224 Fork Road)
11th Election District-6th Councilmanic District
Case No.: 94-139-SPH

Dear Ms. Weidenhammer:

I recently filed a Petition for Judicial Review in the Circuit
Court on behalf of George R. Beck and George S. Beck in the above
matter.

Could you please notify me when the record has been
transmitted to the Circuit Court?

Thank you for your cooperation in this matter.

Very truly yours,

Mark P. Hanley, Jr.
Mark P. Hanley, Jr.

MPH/jdp
cc: Peter Max Zimmerman, Esquire
Carol S. Demilio
Paul A. Harper, Esquire
Ms. Elizabeth Hendrickson
Lawrence Schmidt, Zoning Commissioner
Timothy M. Rotroco, Deputy Zoning Commissioner
Arnold Jablon, Director Zoning Board
Ms. Rosemary Gomez
Mr. George R. Beck
Mr. George S. Beck

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AUG 19 1994
ZADM

IN THE CIRCUIT COURT FOR
BALTIMORE COUNTY

PETITION OF
GEORGE S. BECK
GEORGE R. BECK
13240 Fork Road
Baldwin, Maryland 21013
FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY BOARD OF
APPEALS OF BALTIMORE COUNTY

CIVIL
ACTION
NO:

IN THE CASE OF
THE ESTATE OF RITA S. HOLLAND/
ELIZABETH HENDRICKSON, P.R.
Case No. 94-139-SPH

PETITION FOR JUDICIAL REVIEW

GEORGE S. BECK and GEORGE R. BECK, Petitioners, by their
attorney, Mark P. Hanley, Jr. pursuant to Rule 7-202, represent:

1. They were parties to a proceeding before the County Board
of Appeals of Baltimore County, known as The Estate of Rita S.
Holland, Elizabeth Hendrickson, P.R., Case No. 94-139-SPH.

2. By Order dated July 20, 1994, the Board granted the right
to subdivide one building lot from an existing 15.76 acre parcel,
pursuant to Section 1A01.3B of the Baltimore County Zoning
Regulations, by confirming the density units available on the
subject and neighboring properties and ruling the 1983 conveyance
a non-density transfer.

3. It was further Ordered that the Estate of Rita S.
Holland contains two density units, and as such, the 3.56 acre
parcel containing the existing improvements enjoys one density
unit the 11.74 acre parcel contains the remaining density unit
and, as such, it is a building lot.

4. It was further Ordered that the 11.09 acre lot acquired

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CLERK OF DISTRICT COURT
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by Petition in 1983 contains no density units and is therefore
unbuildable.

5. Your Petitioner is aggrieved by that decision.

WHEREFORE your Petitioners request judicial review of the
decision of the County Board of Appeals of Baltimore County.

Mark P. Hanley, Jr.
Mark P. Hanley, Jr.
206 Washington Avenue
P.O. Box 5506
Towson, Maryland 21204
(410) 823-1174
Attorney for George S. Beck,
Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY this 18th day of August, 1994, that a copy
of the foregoing pleading/paper was mailed by first class mail
postage prepaid to the following:

-2-

Ms. Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Ms. Rosemary Gomez
13218 Fork Road
Baldwin, Maryland 21013
Peter Max Zimmerman, Esquire
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204

Paul A. Harper, Esquire
2125 Bellvale Road
Fallston, Maryland 21047

Peter M. Zimmerman and
Carol S. Demilio
Office of Peoples' Counsel
Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Lawrence Schmidt, Zoning Comm.
Department of Zoning & Planning
401 Bosley Avenue
Suite 406
Towson, Maryland 21204

Timothy M. Rotroco, Deputy
Zoning Commissioner
for Baltimore County
Office of Planning & Zoning
Suite 113, Courthouse
400 Washington Avenue
Towson, Maryland 21204

Ms. Elizabeth Hendrickson
1419 Larch Road
Severn, Maryland 21144

Arnold Jablon, Director
Zoning Administration and
Development Management
11 West Chesapeake Avenue
Towson, Maryland 21204

Mark P. Hanley, Jr.
Mark P. Hanley, Jr.

LAW OFFICES
MARK P. HANLEY, JR.
206 WASHINGTON AVENUE
P.O. BOX 5506
TOWSON, MARYLAND 21204

TELEPHONE
(410) 823-1174

February 18, 1994

Ms. Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: THE ESTATE OF RITA S. HOLLAND/ELIZABETH HENDRICKSON,
PERSONAL REPRESENTATIVE, PETITIONER
W/S Fork Road, 400' S of Bottom Road
(13224 Fork Road)
11th Election District-6th Councilmanic District
Case No.: 94-139-SPH

Dear Ms. Weidenhammer:

Please postpone the above captioned matter presently scheduled
for Tuesday, March 22, 1994 at 10:00 a.m. as I have long standing
plans to be out of town during that week. Furthermore, an expert
witness retained to testify in this matter is unavailable on March
22, 1994. Accordingly, please postpone this matter for a later
date.

Thank you for your anticipated cooperation.

Very truly yours,

Mark P. Hanley, Jr.
Mark P. Hanley, Jr.

MPH/jdp
cc: Peter Max Zimmerman, Esquire
Paul A. Harper, Esquire
Ms. Rosemary Gomez
Mr. George S. Beck

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C TO 4-12-94

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME
PAUL A. HARPER, ESQ.

ADDRESS
7206 BELAIR RD
BALTIMORE MD 21206

Patricia H. Walker

1309 Currier St

ERICA STEVENS

Haver de Grace, MD 21078
700 GREENWOOD RD.

Rosemary Gomez

PIKESVILLE MD 21208

Glenn A. Gammel

13218 Fork Rd. Baltimore MD 21013

E.A. HENDRICKSON

13219 Fork Rd. Baltimore MD 21013

John Staley

1419 LARCH RD
SEVERN MD 21144

102 N. MAIN ST
BAL AIR MD 21014

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PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

NAME
MARK HANLEY JR
GEORGE BECK

ADDRESS
206 Wash Ave Towson
13240 FORK RD

MICROFILMED

plat book# 5607, folio# 207

OWNER:

ESTATE OF
Rita Streett Holland
Elizabeth Hendrickson,
Personal Representative

BOTTOM ROAD

FORK ROAD

LAND OF BIRALL 5719/42

LAND OF SPINISO 5275/629

LAND OF BAKER 6446/481

LAND OF LYNCH 5031/288

LAND OF GEORGE R. BECK 3840/404

LAND OF SOKET 7977/748

LAND OF BEERS 7073/786

LAND OF AERCHLMANN 5849/471

EXISTING HWY.

EX. HOUSE

HOLLAND vs G.BECK 12/22/73

12/10/93 - BEL TRANSFERRED HOLLAND vs GEORGE R. BECK REQUIRED- 8/1/93 G.BECK to G.S.BECK-8/10/93 Transferred without SPECIAL HEARING "NON-DENSITY TRANSFER"

PROPOSED LOT LINE

DEED LINE

20' RIGHT-OF-WAY

Land to be conveyed to Spiniso in process of being transferred without a Special Hearing "NON-DENSITY TRANSFER" Not a Plausible size lot

DATE: 09/07/93

SCALE: 1" = 100'

PREPARED BY:

SURVEYOR
K.L.S. CONSULTANTS, INC.
102 NORTH MAIN STREET
BEL AIR, MARYLAND 21014
(410) 838-1441

94-

MICROFILMED



94-139-SPH

reviewed by:	ITEM #:	CASE #:
--------------	---------	---------

137

LIBER 5840 PAGE 04

PETITIONER'S EXHIBIT NO. 2

This Deed, Made this 22nd day of December

in the year one thousand nine hundred and seventy-seven by and between

RITA STREET HOLLAND, widow, of Baltimore County, State

of Maryland, party of the first part and

GEORGE R. BECK and KATHLEEN A. BECK, his wife, of Baltimore County, State of Maryland, parties of the second part, Grantees.

WITNESSETH, That in consideration of the sum of Five Dollars (\$5.00) and other good and valuable considerations, the receipt of which is hereby acknowledged,

the said RITA STREET HOLLAND, widow,

doth grant and convey to the said GEORGE R. BECK and KATHLEEN A. BECK, his wife, as tenants by the entirety, their assigns, the survivor of them, his or her

personal representatives/successors and assigns, in fee simple, all that

lot of ground situate in the 11th Election District of Baltimore County, State of Maryland, and described as follows, that is to say:

BEGINNING FOR THE SAME at a point at the intersection of Fork Road (formerly Joppa Road) and Bottom Road (formerly Treadwells Mill Road) at the beginning of the land which by deed dated October 29, 1914 and recorded among the Land Records of Baltimore County in Liber WPC 436, folio 384, was conveyed by Wellington W. Smith to Bernie C. Holland, running thence and binding on part of the first line in said deed and in the bed of Bottom Road as now surveyed, S 43°36'00" W 412.58' thence leaving Bottom Road and the aforesaid first line and running for a line of division the two following courses and distances: 1) parallel to and 24' distant from the second line of the land which by deed dated September 3, 1969 and recorded among the Land Records of Baltimore County in Liber OTU 5031, folio 388 was conveyed by Edgar B. Stricklin and wife to Francis M. Lynch and wife, S 31°31'19" E 174.72' and N 58°54'55" E 385.45' to the center of Fork Road and to intersect the last or N 30-1/2° W 23-2/5' perch line of the aforesaid deed, running thence in the bed of Fork Road and binding on part of said last line as now surveyed, N 27°57'49" W 270.13' to the place of beginning.

CONTAINING 2.00 Acres of land, more or less.

BEING PART of the land which by deed dated February 9, 1976 and recorded among the Land Records of Baltimore County in Liber EHK Jr. 5607, folio 201, was conveyed by Winfield W. Holland to Winfield W. Holland and Rita Street Holland, his wife.

THE SAID Winfield W. Holland having departed this life on or about the 3rd day of July, 1976, thereby vesting absolute fee simple title in the said Rita Street Holland, by right of survivorship.

IT IS AGREED between the parties hereto that the property herein described shall be used for a one family dwelling only and no apartments shall be permitted.

3828 5600 24 615.00 MCO

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LIBER 8554 PAGE 689

PETITIONER'S EXHIBIT NO. 3

NO TITLE SEARCH

THIS DEED, Made this 10th day of December, 1976

one thousand nine hundred and eighty-three, by and between RITA STREET HOLLAND of Baltimore County in the State of Maryland,

party of the first part, and GEORGE R. BECK, party of the second part.

WITNESSETH, that in consideration of the sum of Sixteen Thousand and 00/111 (\$16,000.00) Dollars, the party of the first part does hereby grant and convey unto the party of the second part, his heirs, personal representatives, successors and assigns, in fee simple, all that lot of the ground, situate, lying and being in Baltimore County, State of Maryland, aforesaid, and described by the following courses and distances viz:

Beginning for the same at a point in the center of Fork Road (formerly known as Joppa Road) at the end of the third line of the land which by deed dated December 22, 1977 and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. 5840, folio 404, was conveyed by Rita S. Holland (widow) to George R. Beck and Kathleen A. Beck, said point being also in the last or N 30 1/2° W 23-2/5' perch line of the land which by deed dated October 29, 1914 and recorded among the Land Records of Baltimore County in Liber W.P.C. 436, folio 384, was conveyed by Wellington W. Smith to Bernie C. Holland, running thence in the center of Fork Road and reversely on part of the last or sixth line and reversely on part of the fifth line of the last mentioned deed, as now surveyed, the two following courses and distances (1) S 27°57'49" E 97.97' and (2) S 32°57'49" E 27.18' thence leaving the center of Ford Road and the fifth line of the aforesaid deed and running for lines

AGRICULTURAL TRANSFER TAX
AMOUNT \$640
DATE 7-30-90
SIGNATURE DATE 7-30-90
COPED F

41A02803221LTRYX
BA 0011:07AN07-30-90 \$256.00

LIBER 8704 PAGE 238

NO TITLE SEARCH

THIS DEED, Made this 10th day of December, in the

year One Thousand Nine Hundred and Ninety, by and between

GEORGE R. BECK of Baltimore County in the State of Maryland,

party of the first part, and GEORGE S. BECK, party of the second part.

WITNESSETH, that in consideration of the sum of Zero (\$0.00) Dollars, the party of the first part does hereby grant and convey unto the party of the second part, his heirs, personal representatives, successors and assigns, in fee simple, all that lot of the ground situate, lying and being in Baltimore County, State of Maryland, aforesaid, and described by the following courses and distances viz:

BEGINNING for the same at a point in the center of Fork Road (formerly known as Joppa Road) at the end of the third line of the land which by Deed dated December 22, 1977 and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. 5840, Folio 404, was conveyed by Rita S. Holland (widow) to George R. Beck and Kathleen A. Beck, said point being also in the last or N 30 1/2° W 23-2/5' perch line of the land which by deed dated October 29, 1914 and recorded among the Land Records of Baltimore County in Liber W.P.C. 436, Folio 384, was conveyed by Wellington W. Smith to Bernie C. Holland, running thence in the center of Fork Road and reversely on part of the last or sixth line and reversely on part of the fifth line of the last mentioned deed, as now surveyed, the two following courses and distances (1) S 27°57'49" E 97.97' and (2)

9/3/91

PETITIONER'S EXHIBIT NO. 4

Pet. Ex #6

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
W/S Fork Rd., 400' S of Bottom Rd. * DEPUTY ZONING COMMISSIONER
(13224 Fork Road)
11th Election District * OF BALTIMORE COUNTY
6th Councilmanic District * Case No. 94-139-A

Estate of Rita S. Holland -
Elizabeth Hendrickson as
Personal Representative -
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing filed by the owners of the subject property, the Estate of Rita S. Holland, by its personal representative, Elizabeth Hendrickson, through their attorney Paul A. Harper, Esquire. The Petition as filed seeks approval of the right to subdivide one (1) building lot from an existing 15.76 acre parcel, pursuant to Section 1A01.3.B of the Baltimore County Zoning Regulations (B.C.Z.R.), by confirming the density units available on the subject and neighboring properties and ruling the 1983 conveyance a non-density transfer, all as more particularly described on Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Elizabeth A. Hendrickson as Personal Representative, Patricia H. Walker, Erica Stevens, Rosemary Gomez, and Alvan G. Emmel, owners of property in the surrounding area, and John Staley, Registered Property Line Surveyor. The Petitioners were represented by Paul A. Harper, Esquire. Appearing as a Protestant in the matter was George Beck, an adjoining property owner. Mr. Beck was represented by Mark P. Hanley, Jr., Esquire.

Testimony indicated that the subject property, known as 13224 Fork Road, consists of 15.756 acres, more or less, zoned R.C. 2 and is improved with a single family dwelling and detached garage. The Petition-

PETITIONER'S EXHIBIT NO. 6

IN RE: PETITION FOR VARIANCE
W/S Fork Road, 270' S of
Bottom Road
(13230 Fork Road)
11th Election District
5th Councilmanic District

George S. Beck, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-82-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for that property known as 13230 Fork Road located near Baldwin in northern Baltimore County. The Petition was filed by George S. Beck, owner of the property. The Petitioner seeks relief from Section 1A01.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit side yard setbacks of 25 feet each in lieu of the minimum required 35 feet for both for a proposed dwelling, as more particularly shown on Petitioner's Exhibit 1, the plat which accompanied the Petition filed.

Appearing at the requisite hearing held in this case was George R. Beck, the Petitioner's father and adjoining property owner. Mr. Beck was represented by Mark P. Hanley, Jr., Esquire. Several individuals appeared in opposition to the Petition, including John A. Staley, Ed Hendrickson, Rosemary Gomez, Sean M. Thompson, Patricia H. Walker and Erica H. Stevens. Some of the Protestants were represented by Paul A. Harper, Esquire.

Testimony and evidence presented established that the subject property consists of 1.095 acres, more or less, zoned R.C. 2 and is presently unimproved. The property is best described as a long, narrow lot which is approximately 98 feet wide at its frontage on York Road and 125 feet wide across the rear property line. The property is approximately

08/13/93 11:58 P04

Baltimore County Government
Office of Zoning Administration
and Development Management

11 West Chesapeake Avenue
Towson, MD 21204

March 8, 1993

Mr. Mark P. Hanley, Esquire
206 Washington Avenue
P.O. Box 5506
Towson, MD 21204

RE: 1.095 acre George Beck Parcel
on Fork Road

Dear Mr. Hanley:

This office has reviewed the information supplied by you in a letter dated, February 18, 1993. That information in conjunction with our research has led to the conclusion that from a zoning density perspective the lot is buildable for residential purposes.

The applicant should be aware that the building setbacks required in an R.C.-2 zone are 75 feet from the center line of any road and 35 feet from all other lot lines. The maximum height of a dwelling is 35 feet from highest grade to roof peak.

The Department of Permits and Licenses should be contacted at 887-3391 to determine what plans are necessary to file for building permit. The applicant is also advised to bring a copy of this letter when applying for building permit.

Should you have any further questions, please do not hesitate to contact me at 887-3391.

Sincerely,
Catherine A. Milon
Planner I

CAM/jaw

PROTESTANT'S EXHIBIT NO. 1

MICROFILMED

LAW OFFICES
MARK P. HANLEY, JR.
206 WASHINGTON AVENUE
P.O. BOX 5506
TOWSON, MARYLAND 21204

February 18, 1993

Lawrence Schmidt, Zoning Commissioner
Department of Zoning & Planning
401 Bosley Avenue
Suite 406
Towson, Maryland 21204

RE: Lot 1.095 Acres on Fork Road Near Bottom Road Titled in the Name of George S. Beck
Application for Building Permit

Dear Commissioner Schmidt:

On behalf of the above and in conformity with the Commissioners Policy Manual Section 1A01.3.B.1 concerning subdividing existing lots, and since the above parcel is located in an RC2 zoned area and in conformity with B, Section (6) I am submitting the following documents in an effort to obtain a building permit for Mr. George S. Beck:

1. The subject lot was conveyed out of a larger parcel which was originally conveyed to Rita Street Holland under Deed dated February 9, 1976 at Liber 5607, page 201, copy of which is attached;

2. The subject lot was conveyed out of the aforementioned parcel under Deed dated December 10, 1983 to George R. Beck, father of George S. Beck, under Liber 8554, page 689, copy of which is attached;

3. Also attached is a description prepared by E. F. Raphael & Associates and plat which is dated December 1, 1983 of the subject lot;

4. The subject lot was then conveyed by George R. Beck to his son, George S. Beck under Deed dated August 10, 1990 and recorded on Liber 8704, page 238, a copy of that Deed is attached hereto; and

5. This is to further certify that no other conveyances were parcelled out of the original lot owned by Rita Street Holland of February 9, 1976.

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LIBER 8554 PAGE 689

PETITIONER'S EXHIBIT NO. 1

NO TITLE SEARCH

THIS DEED, Made this 10th day of December, 1976

one thousand nine hundred and eighty-three, by and between RITA STREET HOLLAND of Baltimore County in the State of Maryland,

party of the first part, and GEORGE R. BECK, party of the second part.

WITNESSETH, that in consideration of the sum of Sixteen Thousand and 00/111 (\$16,000.00) Dollars, the party of the first part does hereby grant and convey unto the party of the second part, his heirs, personal representatives, successors and assigns, in fee simple, all that lot of the ground, situate, lying and being in Baltimore County, State of Maryland, aforesaid, and described by the following courses and distances viz:

Beginning for the same at a point in the center of Fork Road (formerly known as Joppa Road) at the end of the third line of the land which by deed dated December 22, 1977 and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. 5840, folio 404, was conveyed by Rita S. Holland (widow) to George R. Beck and Kathleen A. Beck, said point being also in the last or N 30 1/2° W 23-2/5' perch line of the land which by deed dated October 29, 1914 and recorded among the Land Records of Baltimore County in Liber W.P.C. 436, folio 384, was conveyed by Wellington W. Smith to Bernie C. Holland, running thence in the center of Fork Road and reversely on part of the last or sixth line and reversely on part of the fifth line of the last mentioned deed, as now surveyed, the two following courses and distances (1) S 27°57'49" E 97.97' and (2) S 32°57'49" E 27.18' thence leaving the center of Ford Road and the fifth line of the aforesaid deed and running for lines

AGRICULTURAL TRANSFER TAX
AMOUNT \$640
DATE 7-30-90
SIGNATURE DATE 7-30-90
COPED F

41A02803221LTRYX
BA 0011:07AN07-30-90 \$256.00

MICROFILMED

(410) 887-3353

March 8, 1993

RE: 1.095 acre George Beck Parcel
on Fork Road

Dear Mr. Hanley:

This office has reviewed the information supplied by you in a letter dated, February 18, 1993. That information in conjunction with our research has led to the conclusion that from a zoning density perspective the lot is buildable for residential purposes.

The applicant should be aware that the building setbacks required in an R.C.-2 zone are 75 feet from the center line of any road and 35 feet from all other lot lines. The maximum height of a dwelling is 35 feet from highest grade to roof peak.

The Department of Permits and Licenses should be contacted at 887-3391 to determine what plans are necessary to file for building permit. The applicant is also advised to bring a copy of this letter when applying for building permit.

Should you have any further questions, please do not hesitate to contact me at 867-3391.

Sincerely,

CATHERINE A. MILTON
Planner I

CAM/jaw

Cont. Exh #6

J. Robert Hsines
Zoning Commissioner

October 4, 1988



Dennis F. Rasmussen
County Executive

Mr. James D. Grammer, Project Manager
McKee & Associates, Inc.
Shawan Place
5 Shawan Road
Hunt Valley, Maryland 21030

RE: Subdivision and a
Non-density transfer
The Larson Property
5th or 6th Election District

Dear Mr. Grammer:

A review of the 208 acre property as shown on the submitted plat titled "Sketch Plan for Larson Property" indicates that a Special Bearing for a non-density transfer would be required to allow the proposed subdivision of Parcel 2.

Enclosed with this letter is a copy of RSD-8 and A-17, both excerpts from the Zoning Policy Manual dealing with this type of subdivision and helpful in understanding zoning requirements. In addition, enclosed is a copy of the petition procedural steps which should also assist you in your request for a public hearing.

Should you need further assistance, please do not hesitate to contact me at 494-3391.

Very truly yours,

James E. Dyer
JAMES E. DYER
Zoning Supervisor
John S. Lee

BY: JOHN L. LEWIS
Planning & Zoning Associate II

JLL/cer

MICROFILMED

RECEIVED
(10-11-81)
RECEIVED

22-00 - 004745

OFFICE OF THE BUILDING INSPECTOR
TOWSON, MARYLAND 21204

CRA SA
HISTORIC DISTRICT/BLDG.

PERMIT # 3
RECEIPT #
CONTRACT # NR
JOB #

PROPERTY ADDRESS 13240 FISH PL.

SUBDIV.
DEAN ROBERT B. 13240 FISH PL.
OWNER'S INFORMATION (LAST, FIRST)
NAME: George R. Rank
ADDRESS: 13240 FISH PL. #1013
TOWSON, MD.

APPLICANT INFORMATION
NAME: George R. Rank
COMPANY:
ADDRESS:
ADDRESS:
PHONE # 483-2859 WHITE LICENSE #:
APPLICANT
SIGNATURE: _____ TRACT: _____ BLOCK: _____

1. I HAVE CAREFULLY READ THIS APPLICATION AND KNOW THE SAME IS CORRECT AND TRUE, AND THAT IN FORCE THEREOF HAVE ALL NECESSARY OF THE BUILDING CODE AND APPROPRIATE STATE REGULATIONS WILL BE ON FILE AND WILL HERETOBY HEREBY REQUESTED INSPECTIONS.

BUILDING 1 or 2 FAN.
CODE CODE
FOCA CODE
TYPE OF IMPROVEMENT
1. ☒ NEW BLDG CONST
2. ☐ ADDITION
3. ☐ ALTERATION
4. ☐ REPAIR
5. ☐ WRECKING
6. ☐ MOVING
7. ☐ OTHER

TYPE OF USE
RESIDENTIAL
NON-RESIDENTIAL

01. ☒ ONE FAMILY
02. ☒ TWO FAMILY
03. ☐ THREE AND FOUR FAMILY
04. ☐ FIVE OR MORE FAMILY
05. ☐ SWIMMING POOL (UNITS)
06. ☐ GARDEN
07. ☐ OTHER

08. ☐ AMUSEMENT, RECREATION, PLACE OF ASSEMBLY
09. ☐ CHURCH, OTHER RELIGIOUS BUILDING
10. ☐ CAFE (EATERY)
11. ☐ INDUSTRIAL, STORAGE BUILDING
12. ☐ PACKING GARAGE
13. ☐ SERVICE STATION, REPAIR GARAGE
14. ☐ HOSPITAL, INSTITUTIONAL, NURSING HOME
15. ☐ OFFICE, BANK, PROFESSIONAL
16. ☐ PUBLIC UTILITY
17. ☐ SCHOOL, COLLEGE, OTHER EDUCATIONAL
18. ☐ SIGN
19. ☐ STORE, MERCANTILE, RESTAURANT
20. ☐ SPECIFY TYPE SWIMMING POOL

21. ☐ TANK, TOWER
22. ☐ TRANSIENT HOTEL, MOTEL (NO. UNITS)
23. ☐ OTHER

TYPE OF HEATING FLUE TYPE OF SEWAGE DISPOSAL
1. ☒ GAS 3. ☐ ELECTRICITY 1. ☐ PUBLIC SEWER
2. ☐ OIL 4. ☐ FUEL OIL 2. ☐ PRIVATE SYSTEM
3. ☐ STRUCTURE STEEL
4. ☐ CONCR. INFIN. CONCRETE
5. ☐ PRIVATE SYSTEM
6. ☐ PUBLIC SYSTEM
7. ☐ OTHER
8. ☐ OTHER

CENTRAL AIR: 1 V. 50 BLDG. OF MATERIALS AND LABOR
ESTIMATED COST: 150,000
EXISTING USE: VA BLDG
OWNERSHIP
1. ☐ PRIVATELY OWNED 2. ☐ PUBLICLY OWNED 3. ☐ SALE 4. ☐ RENTAL
RESIDENTIAL CATEGORY: 1. ☐ DETACHED 2. ☐ SEMI-DET 3. ☐ GROUP 4. ☐ TOWNHOUSE 5. ☐ MIDRISE
FAMILY BEDROOMS 2 #BEDS: 3 #BED: 3 TOP APPTS/CONDOS 6. ☐ MIDRISE
CONCRETE DISCREET 2 BATHROOMS 2 CLASS OK
POWDER ROOMS 1 KITCHENS 2 LIBR OK FOLLO —

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APPROVAL SIGNATURES DATE

BUILDING SIZE LOT SIZE AND SETBACKS
FLOOR 3 BLD INSP. 1
WIDTH 42'6" FRONT STREET 1
DEPTH 49'2" SIDE STREET 1
HEIGHT 11 SIDE ST 1
STORIES 2 SIDE ST 1
LOT # 1 SIDE ST 1
CORNER LOT 1

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ORIGINAL

1

1	IN THE MATTER OF	*	BEFORE THE
2	THE APPLICATION OF	*	COUNTY BOARD OF APPEALS
3	THE ESTATE OF RITA S. HOLLAND,*		OF BALTIMORE COUNTY
4	ELIZABETH HENDRICKSON, P.R.,	*	Case No. 94-139-SPH
5	For special Hearing on	*	April 12, 1994
6	Property Location On The	*	
7	West Side Fork Road, 400'	*	
8	South of Bottom Road	*	
9	(13224 Fork Road)	*	
10	11th Election District	*	
11	6th Councilmanic District	*	

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 at 10 o'clock a.m., April 12, 1994.

Reported by:

C.E. Peatt

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BOARD OF APPEALS

[Bill No. 98, 1975]"

Section 1801.3A sets forth the requirements to subdivide and develop R.C. 2 property.

However, subdivision may take place which does not require compliance with the development procedures found in the Baltimore County Code, Article V, Section 26-166, et seq. Section 26-170 of the Code provides:

"General exemption. The subdivision of land for agricultural purposes is exempt from these regulations if no new streets are involved, subject to compliance with all applicable zoning regulations. [Code 1978, Section 22-41; Bill No. 18, 1990, Section 2]"

The present case does not involve a question of transfer of density from one "lot of record" to another (across lot of record boundaries), but rather the question of whether there has been a subdivision of a single parcel. This distinction should be kept in mind because there does not appear to be any legal authority for the transfer of density between parcels in R.C. 2 zones, in the absence of specific legislative authority. See West Montgomery Citizens v. Maryland National Capital Park & Planning Commission, 309 Md. 183 (1987).

Rita S. Holland owned approximately 19 acres of land on Fork Road from which she first created two separate parcels. The testimony in the instant case indicates that in 1977, she transferred, by deed, two acres to George R. Beck, the Protestant herein, leaving her with 16.846 acres. It should be noted that this transfer preceded the Regulations establishing density for R.C. 2 property. Thus, on the effective date of the density

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regulations in Bill No. 178-79, Mrs. Holland owned a lot of record between 2 and 100 acres with two density units and Mr. Beck owned a lot of record consisting of 2 acres with two density units. In December 1983, a second transfer by deed occurred between Mrs. Holland and Mr. Beck. This transfer consisted of 1.09 acres. It remained a separate lot of record after its recordation in the Land Records Office for Baltimore County on July 30, 1990. The deed did not refer to density units or express an agricultural purpose for the transfer. Less than 5 months after recording his deed, 7 years after the purchase, Mr. Beck transferred the 1.09 acres to his son, George S. Beck, presumably, upon which to build a residence.

The Petitioner in the instant case is the daughter and Personal Representative of the Estate of Rita S. Holland. She testified that in November 1979 Mrs. Holland owned a lot of record with total acreage of 16.846, consisting of the current holding of 15.756 acres and the 1.09 acres subsequently transferred to Mr. Beck.

The density of the 1.09-acre parcel is in dispute. The Petitioner maintains that a non-density transfer occurred in accordance with Section 26-170 of the Baltimore County Code to add to Mr. Beck's yard. As such, the remaining 15.756 acres retained two density units, which supports the requested subdivision into two building lots. The Protestant maintains that the transfer of 1.09 acres to him included one density unit for a separate lot of record.

The jurisdiction of the Board of Appeals of Baltimore County

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in zoning cases is found in the Express Powers Act, Article 25A, Section 5(U) of the Annotated Code of Maryland. This law enables Baltimore County to enact local laws to establish a Board of Appeals to decide petitions, "by any interested person and after notice and opportunity for hearing and on the basis of the record before the board, of such of the following matters arising...under any law, ordinance, or regulation of, or subject to amendment or repeal by, the county council, as shall be specified from time to time by such local laws enacted under this subsection: An application for a zoning variation or exception or amendment of a zoning ordinance map;...."

Although the instant case is presented under the guise of a Special Hearing, the underlying issue focuses on the evidence surrounding the intentions of the parties at the time of the transfer of the 1.09-acre lot. The parties themselves do not dispute the BCZR pertaining to density attributable to R.C. 2 property. In fact, this case arose because the Petitioner and Protestant agree that two density units existed on Mrs. Holland's 16.846-acre parcel immediately prior to the sale of 1.09 acres of that parcel to Mr. Beck. The parties disagree on the issue of whether a density unit was included in the sale. The Board cannot grant the Petition for Special Hearing unless it also finds that the sale of the 1.09 acres was a non-density transfer.

The Protestants presented an expert witness who testified that the customary procedure has been to require a Special Hearing to affirm a non-density transfer. The parties to the 1983 transfer

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did not request a special hearing. Nor did they proceed through the development process to create a subdivision with two building lots in 1983. Therefore, a ruling in this case requires a determination of the intention of the parties at the time of sale. There was no evidence of a written agreement executed between the parties for the sale of the subject site, other than the deed. The parties offered only the deed which transferred ownership of the subject parcel which does not mention density units. The testimony of the parties evidences a conflict as to the intentions of the Grantor and Grantee as to the purpose of the sale of the 1.09-acre parcel. In addition, the Dead Man's Statute prevented certain testimony in the hearing, thus making intent even more difficult to ascertain. The evidence did indicate that this parcel was created under Section 26-170 of the Baltimore County Code since there was no evidence of compliance with the subdivision requirements as found in the Development Regulations in Section 1801.3A3 of the BCZR. It is not clear whether a subdivision for agricultural purposes necessarily implies a non-density transfer.

And after considering the evidence in this case, it is clear what did not happen. What did not happen is expressed intent by the parties to transfer the density unit from the subject site to the 1.09-acre site that Mr. Beck bought. It may well have been the intention of one or both of the parties at that time that such unit be transferred, but the evidence does not convince the Board that that is what occurred. In light of the lack of any expressed intent that the parties intended to transfer a density unit, and

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since no one took procedures with Baltimore County to see that the density unit was in fact transferred, we find as a fact that no such transfer occurred. Therefore, the Petition for Special Hearing should be granted, and the decision of the Deputy Zoning Commissioner affirmed, and the Estate has retained the density unit on the subject property.

ORDER

THEREFORE, IT IS this 20th day of July, 1994, by the County Board of Appeals of Baltimore County,

ORDERED that the Petition for Special Hearing to approve the right to subdivide one building lot from an existing 15.76-acre parcel, pursuant to Section 1A01.3B of the Baltimore County Zoning Regulations, by confirming the density units available on the subject and neighboring properties and ruling the 1983 conveyance a non-density transfer, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1. The 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, the relief granted herein shall be rescinded.
2. Pursuant to Section 502.2 of the Baltimore County Zoning Regulations, a new deed incorporating a reference to this case and the restrictions and conditions set forth herein shall be recorded among the Land Records of Baltimore County within sixty (60) days of the date of this Order and a copy of the recorded deed shall be forwarded to the Zoning Commissioner for inclusion in the case file.

IT IS FURTHER ORDERED that The Estate of Rita S. Holland contains two density units, and as such, the 3.56-acre parcel containing the existing improvements enjoys one density unit and

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the 11.74-acre parcel contains the remaining density unit and, as such, is a buildable lot; and,

IT IS FURTHER ORDERED that the 1.09-acre lot acquired by Mr. Beck in 1983 contains no density units and is therefore unbuildable.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

C. William Clark
C. William Clark

Harry E. Buchheister, Jr.
Harry E. Buchheister, Jr.

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IN THE MATTER OF
THE APPLICATION OF
THE ESTATE OF RITA S. HOLLAND,
ELIZABETH HENDRICKSON, P.R.
FOR SPECIAL HEARING ON PROPERTY
LOCATION ON THE WEST SIDE FORK
ROAD, 400' SOUTH OF BOTTOM ROAD
(13224 FORK ROAD)
11TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 94-139-SPH

DISSENTING OPINION

This board member will respectfully dissent from the majority opinion based on the following testimony and evidence:

In 1977, Rita S. Holland conveyed to her neighbor, George R. Beck, a 2-acre parcel. In 1979, the R.C. 2 classification created density units. Mr. Beck's 2-acre parcel now contains two density units and Ms. Holland's 16-acre parcel contains two density units. No additional density unit can be created within these parcels. In 1983, Ms. Holland conveyed to Mr. Beck a 1.09-acre lot and the .09 is very relevant. Mr. Beck paid \$15,000 in 1983 for this 1.09 acre lot. It is this board member's opinion that this was a very high price to pay in 1983 for a small lot in a purely agricultural condition but fronting on a main road. It is unrealistic to think that in 1983 any one would pay \$15,000 for this small parcel just to increase the 2-acre parcel he already owns. I believe it is implied by the fact that the conveyance was more than 1 acre which indicates that the ability to build on that lot was taken for granted. Since Ms. Holland, who died in 1993, is not here to tell us, we can only project ourselves into her intentions at the time of conveyance. Considering the high prices paid in 1983 for 1 acre of pasture land and the size of the lot which just barely exceeds

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the 1 acre minimum, it is this board member's opinion that Mr. Beck purchased this lot believing it to be a buildable parcel. It is further the opinion of this member that one of the two density units assigned to the 16-acre parcel in 1979 goes with the 1.09 acre parcel and that no transfer of any density units per-se is involved. I find from the testimony that the 1.09-acre parcel purchased by Mr. Beck in 1983 and conveyed to his son in 1994 has one density unit associated with it. It is my opinion the 1.09-acre parcel is a buildable lot, and that all Mr. Beck's son has to do now is apply for his building permits and conform to all Baltimore County regulations.

William T. Hackett
William T. Hackett, Chairman
County Board of Appeals

DATE: July 20, 1994

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

July 20, 1994

Mark P. Hanley, Jr., Esquire
206 Washington Avenue
P.O. Box 5506
Towson, MD 21204

RE: Case No. 94-139-SPH
The Estate of Rita S. Holland
/Elizabeth Hendrickson, P.R.

Dear Mr. Hanley:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter. Also enclosed is a copy of the Dissenting Opinion of William T. Hackett.

Very truly yours,
Charlotte S. Ralch
Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Mr. George S. Beck
Paul A. Harper, Esquire
Ms. Elizabeth Hendrickson
Mr. George R. Beck
Ms. Rosemary Gomez
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy M. Ketzee
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director/ZADM
FILE



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on Recycled Paper

IN THE MATTER OF * BEFORE THE
ESTATE OF RITA S. HOLLAND * COUNTY BOARD OF APPEALS
ELIZABETH HENDRICKSON, P.R. * OF
PETITIONER * BALTIMORE COUNTY
* CASE NO. 94-139-SPH

COUNTY BOARD OF APPEALS
94 JUN -7 AM 10:50

MEMORANDUM OF PETITIONER
STATEMENT OF THE CASE

This case involves the Petitioner's application to affirm approval of the right to subdivide one building lot from a 15.76± acre tract owned by the estate pursuant to Section 1A01.3.B. of the Baltimore County Zoning Regulations.

At issue is the effect of the transfer of a 1.09± acre tract to George R. Beck by Deed dated December 10, 1983 and recorded on or about August 1, 1990. The question to be answered by the Board of Appeals is whether the transfer to Mr. Beck included a density unit, or was the transfer a lot line adjustment?

The subject property is located on Fork Road in the 11th Election District, 6th Councilmanic District and is zoned R.C.-2. The property is improved with a single family residence and detached garage.

Petitioner presented two witnesses, John Staley, a registered land surveyor and Elizabeth Hendrickson, personal representative of the Estate and also the daughter of Ms. Holland. As I recall, Mr. Staley's testimony focused on the fact that the 1983 transfer was consistent with a lot line adjustment since no

special hearing was ever sought to create a minor subdivision. Ms. Hendrickson's testimony recited her familiarity with the property and the fact that it continued to be farmed and rent continued to be paid to her mother up until her mother's passing in 1993.

The Protestants offered Mr. George R. Beck and Mr. James McKee as witnesses. I don't believe anything they said should be considered by the Board during its deliberations. Mr. Beck lacked standing to testify because he is no longer an owner of any of the property in the area, a fact that was withheld for most of the hearing because of his counsel's failure to have him identify himself for the record. He was also barred from testifying because of Courts and Judicial Proceedings § 9-116 of the Maryland Annotated Code, renamed the "Dead Person's Statute" during the hearing. I don't believe that Mr. McKee's testimony should be considered because, to my recollection, he was never qualified as an "expert" witness.

ARGUMENT

This is a case in which the Board must decide whether the tract of land owned by the Estate of Ms. Holland contains two density units. Petitioner believes that the answer to this question must be in the affirmative and that the route to this answer is fairly straight forward.

There are not a lot of relevant facts before the Board. As of November, 1979, this R.C.-2 zoned property had two (2) density units associated with it. In 1983 a Deed was purportedly signed, notarized in 1985 and recorded in 1990 which conveyed a

2

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1.09± acre parcel to the then neighboring property owner, George R. Beck, who owned an adjoining two acre parcel that also had two density units. There was no contract of sale and the subsequent use of the property as farmland supports the conclusion that no density unit went with the 1983 transfer.

As succinctly stated by the Hearing Examiner below, this transfer was "in fact, an illegal subdivision" (Pg. 3) No special hearing was ever requested by either party to the transfer, therefore, no density unit went with this conveyance. It is logical to conclude that Mr. Beck simply acquired the land to increase the available area on which a house could be built using one of the two density units that he already had by virtue of the adjacent two-acre tract that he owned. Petitioner's understanding of the requirements at the time of the transfer were that it was necessary to file for a special hearing, or otherwise seek minor subdivision approval in order to classify any transfer as a transfer of a building lot with a density unit.

Assuming arguendo that the Board determines the testimony of Mr. McKee is worthy of consideration, as well it might, then the Board must weigh Mr. McKee's testimony against the decision by the Hearing Examiner because the two are at opposite ends of the spectrum. The Board's decision is still an easy one because Mr. McKee testified that the policy and procedure as he understood it was one of first come, first served. In the opinion of your Petitioner, we are first with our application for this special hearing, so we win. Mr. Beck has nothing that outweighs or

3

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overrules the special hearing process. He has an application for a building permit, not a building permit. He bought some additional land for whatever reason, but he did not buy a density unit with it. Obviously, your Petitioner also supports the reasoning set forth in the Hearing Examiner's opinion which concluded that no density unit went with the transfer from Holland to Beck.

WHEREFORE, your Petitioner respectfully requests that the Board of Appeals grant the requested relief and confirm that two (2) density units are attached to the property thereby allowing the subdivision of one tract of land with a density unit from the 15.76± acres parcel.

Respectfully submitted,

Paul A. Harper
Paul A. Harper
7206 Belair Road
Baltimore, MD 21206
(410) 882-6330

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of June, 1994 a copy of the foregoing Petitioner's Memorandum was mailed, postage prepaid to Carole S. Demilio, Esquire, Deputy People's Counsel, Room 47, Courthouse, 400 Washington Avenue, Towson, MD 21204 and to Mark P. Hanley, Esquire, 206 Washington Avenue, P. O. Box 5506, Towson, MD 21204.

Paul A. Harper

RHMOP22 Hand delivered to Board of Appeals 6/7/94 PPH
MICROFILMED 4

LAW OFFICES
MARK P. HANLEY, JR.
206 WASHINGTON AVENUE
P. O. BOX 5506
TOWSON, MARYLAND 21204

TELEPHONE
(301) 882-1174

June 2, 1994

COUNTY BOARD OF APPEALS
94 JUN -2 PM 2:20

HAND-DELIVERY
William T. Hackett, Chairman
County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: THE ESTATE OF RITA S. HOLLAND/ELIZABETH HENDRICKSON,
PERSONAL REPRESENTATIVE, PETITIONER
W/S Fork Road, 400' S of Bottom Road
(13224 Fork Road)
11th Election District-6th Councilmanic District
Case No.: 94-139-SPH

Dear Chairman Hackett:

As per your request, I herewith enclose the Memorandum concerning the above.

Very truly yours,

Mark P. Hanley, Jr.
Mark P. Hanley, Jr.

MPH/jae
Enclosure(s)
cc: Carole S. Demilio, Esquire
Paul A. Harper, Esquire
Mr. George S. Beck

THE ESTATE OF RITA S. HOLLAND/ * BEFORE THE
ELIZABETH HENDRICKSON, * COUNTY BOARD
Personal Representative * OF APPEALS OF
W/S Fork Road, 400' S of * BALTIMORE COUNTY
Bottom Road (13224 Fork Road) * CASE NO: 94-139-SPH
* * * * *

MEMORANDUM

PRESIDING: William T. Hackett, Chairman
C. William Clark
Harry E. Buchheister, Jr.

ISSUE

The issue involved in this matter is whether or not a density unit for the construction of a residential dwelling passed by Deed from the Decedent, Rita S. Holland, to the Appellant/Protestant, George S. Beck:

FACTS

1. That in December of 1983 the subject parcel was zoned RC2 which was owned by Rita S. Holland and consisted of approximately fifteen (15) acres.
2. That on December 10, 1983 Ms. Holland agreed to convey a 1.09 acre lot to George R. Beck and took back a mortgage in the amount of Fifteen Thousand Dollars (\$15,000.00).
3. That George R. Beck did not record the subject Deed and Mortgage until August 1, 1990.
4. That George R. Beck was not aggressive in recording the subject Deed and Mortgage because of financial restraints and because he did not elect to build on the subject lot until

-1-

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February of 1993.

5. That in August of 1990 the subject Deed and Mortgage were recorded and George R. Beck paid the agricultural transfer penalty tax in the amount of Six Hundred Forty Dollars (\$640.00).

6. That on January 31, 1991, George R. Beck by Deed conveyed to his son, George S. Beck, the subject 1.09 acres lot in order that he have a building lot.

7. That on February 6, 1993 the transferor, Rita S. Holland passed away.

8. That on February 18, 1993 by formal request and payment of the Forty Dollar (\$40.00) fee (Exhibit "1"), George S. Beck requested of the Baltimore County Zoning Administration Office the availability of building upon the subject lot and to which request a response was issued on March 8, 1993 (Exhibit "2") wherein Catherine A. Milton, Planner I, issued the following:

"This office has reviewed the information supplied by you in a letter dated, February 18, 1993. That information in conjunction with our research has led to the conclusion that from a zoning density perspective the lot is buildable for residential purposes."

9. That in reliance upon this response by the Zoning Office, George S. Beck proceeded to request a formal building permit from the Administrative Office, Permit Section of Baltimore County.

ARGUMENT

1. That it is the contention of the Appellant/Protestant that under Section 26-170 of the County Code titled "Agricultural Exemption, there was no necessity for a formal building permit for agricultural transfer as same is exempt under the Agricultural Exemption."

Section of the Agricultural Division of the Code.

2. That under the Baltimore County Code concerning RC2 zone, Rita S. Holland was permitted to Deed off one lot and same would be exempted under the aforementioned Section 26-170 subject to compliance with all applicable zoning regulations.

3. That the expert called on behalf of the Appellant/Protestant, namely, James McKee of McKee & Associates, testified that under County policy then in existence it was proper and sanctioned by the County to make transfers for agricultural purposes similar to the one in this case without the formality of a subdivision proceeding.

4. That James McKee of McKee & Associates further testified that a density unit would follow the transfer of this parcel, for if this were not the case, a special hearing for a non-density transfer would have been required.

5. That James McKee of McKee & Associates also testified that it was customary where the first to apply for said permit would take precedence over any other applications for said permit which in this case would be in that George S. Beck who applied first for the building permit.

CONCLUSION

On behalf of the Appellant/Protestant, the Petitioner respectfully requested that the building permit which was applied for and granted by the Baltimore County Zoning Office be allowed to stand and that the application of the Estate of Rita S. Holland be for denying this density unit be denied.

-3-

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Respectfully submitted,

Mark P. Hanley, Jr.
Mark P. Hanley, Jr.
206 Washington Avenue
P.O. Box 5506
Towson, Maryland 21204
(410) 823-1174
Attorney for Appellant/
Protestant

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EXHIBIT

LAW OFFICES
MARK P. HANLEY, JR.
206 WASHINGTON AVENUE
P.O. BOX 5506
TOWSON, MARYLAND 21204

P82

February 18, 1993

Lawrence Schmidt, Zoning Commissioner
Department of Zoning & Planning
401 Bosley Avenue
Suite 406
Towson, Maryland 21204

RE: Lot 1.095 Acres on Fork Road Near Bottom Road Titled in the Name of George S. Beck
Application for Building Permit

Dear Commissioner Schmidt:

On behalf of the above and in conformity with the Commissioners Policy Manual Section 1A01.3.B.1 concerning subdividing existing lots, and since the above parcel is located in an RC2 zoned area and in conformity with B, Section (6) I am submitting the following documents in an effort to obtain a building permit for Mr. George S. Beck:

1. The subject lot was conveyed out of a larger parcel which was originally conveyed to Rita Streett Holland under Deed dated February 9, 1976 at Liber 5607, page 201, copy of which is attached;

2. The subject lot was conveyed out of the aforementioned parcel under Deed dated December 10, 1983 to George R. Beck, father of George S. Beck, under Liber 8554, page 689, copy of which is attached;

3. Also attached is a description prepared by E. F. Raphael & Associates and plat which is dated December 1, 1983 of the subject lot;

4. The subject lot was then conveyed by George R. Beck to his son, George S. Beck under Deed dated August 10, 1990 and recorded on Liber 8704, page 238, a copy of that Deed is attached hereto; and

5. This is to further certify that no other conveyances were parcelled out of the original lot owned by Rita Streett Holland of February 9, 1976.

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Lawrence Schmidt, Zoning Commissioner
February 18, 1993
Page two (2)

You will also find enclosed my firm check in the amount of \$40.00, the fee required to obtain an application. On behalf of the aforesaid George S. Beck we would make application for a building permit on the subject lot.

Very truly yours,

ORIGINAL
SIGNED
Mark P. Hanley, Jr.

MPH/jlm
Enclosure(s)

cc: Mr. George R. Beck

MICROFILMED

EXHIBIT

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

March 8, 1993

Mr. Mark P. Hanley, Esquire
206 Washington Avenue
P.O. Box 5506
Towson, MD 21204

RE: 1.095 acre George Beck Parcel
on Fork Road

Dear Mr. Hanley:

This office has reviewed the information supplied by you in a letter dated February 18, 1993. That information in conjunction with our research has led to the conclusion that from a zoning density perspective the lot is buildable for residential purposes.

The applicant should be aware that the building setbacks required in an R.C.-2 zone are 75 feet from the center line of any road and 35 feet from all other lot lines. The maximum height of a dwelling is 35 feet from highest grade to roof peak.

The Department of Permits and Licenses should be contacted at 887-3391 to determine what plans are necessary to file for building permit. The applicant is also advised to bring a copy of this letter when applying for building permit.

Should you have any further questions, please do not hesitate to contact me at 887-3391.

Sincerely,

Cherlene A. Milroy
CHERLENE A. MILROY
Planner I

CAN/jew

IN THE MATTER OF * BEFORE THE
ESTATE OF RITA S. HOLLAND, * COUNTY BOARD OF APPEALS
ELIZABETH HENDRICKSON, P/R *
PETITION FOR SPECIAL HEARING * FOR BALTIMORE COUNTY
W/S Fork Rd., 400 ft. S of *
Bottom Road (13224 Fork Road) *
11th Election District *
6th Councilmanic District * CASE NO. 94-139-A
* * * * *

PEOPLE'S COUNSEL'S MEMORANDUM

I. STATEMENT OF THE CASE

The Personal Representative of the titled owner of a 15.756 acre parcel of land zoned R.C. 2 filed a Petition for Special Hearing. The Petition seeks approval to subdivide the aforesaid parcel into two building lots, each with one density unit, and to confirm that a conveyance of 1.09 acres in 1983 by the now deceased property owner was a non-density transfer.

The grantee of the aforesaid 1.09 acres contests that portion of the relief which seeks to designate the 1.09 as a non-density transfer.

The 15.756 parcel is improved with a single-family dwelling and a detached garage. The Petitioner seeks to create one lot of approximately 3.562 acres containing these improvements and to create a buildable lot on the remaining 11.742 acres.

The Deputy Zoning Commissioner for Baltimore County granted the Petition for Special Hearing in a written opinion dated November 18, 1993. His Order determined that the 1.09 transfer was a non-density transfer and that the Petitioner held two density units with regard to the 15.756 acre parcel, thus supporting two buildable lots as requested by the Petitioner.

94 JUN -2 PM 2:35
COUNTY CLERK'S OFFICE

The Protestant, Mr. George R. Beck, appealed the Zoning Commissioner's decision to the Baltimore County Board of Appeals and a *de novo* hearing was held on the merits of the case on April 12, 1994. In lieu of closing argument, the County Board of Appeals requested Memoranda from counsel.

II. APPLICABLE REGULATIONS AND STATUTES

The Resource Conservation Zones (hereinafter R.C.) were established by the Baltimore County Council in 1975. The R.C. 2 zone was created by this legislation. The purposes of the R.C. 2 zoning classification, as stated in Section 1A01.1B of BCZR is as follows:

"Purposes: The R.C. 2 zoning classification is established pursuant to the legislative findings above in order to foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses. [Bill No. 98, 1975]"

The density accorded a lot in an R.C. 2 zone was developed by 1979 in Bill No. 178-79, and is found in Section 1A01.3B of BCZR, which states:

"Area regulations. [Bill No. 178-79]"

1. Subdivision lot density. No lot of record lying within an R.C. 2 zone and having a gross area of less than 2 acres may be subdivided. No such lot having a gross area between 2 and 100 acres may be subdivided into more than 2 lots (total), and such a lot having a gross area of more than 100 acres may be subdivided only at the rate of 1 lot for each 50 acres of gross area. ... [Bill No. 178-79; Bill No. 199-1990]

2. Lot size. A lot having an area less than 1 acre may not be created in an R.C. 2 zone. [Bill No. 178-79]"

The Board need only refer to *In the Matter of Steven H. Gudeman*,

(Case No. 88-490-SPH) and decided by the Court of Special Appeals in an unreported decision, to confirm the purpose, interpretation and application of R.C. 2 legislation. (See attached Opinion of Board of Appeals).

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The BCZR in Section 101 defines a "lot of record" as:

"Lot of Record: A parcel of land with boundaries as recorded in the Land Records of Baltimore County on the same date as the effective date of the zoning regulation which governs the use, subdivision, or other condition thereof. [Bill No. 100, 1970]"

A "subdivision" is defined in BCZR, Section 101 as follows:

"Subdivision: The division of any tract or parcel of land, including frontage along an existing street or highway, into two or more lots, plots or other divisions of land for the purpose, whether immediate or future, of building development for rental or sale, and including all changes in street or lot lines, provided, however, that this definition of a subdivision shall not include divisions of land for agricultural purposes. [B.C.2.R., 1955]"

Density calculations for an R.C. 2 lot of record existing in 1979 are based on the total acreage at that time. A subdivision of a lot of record subsequent to 1979 cannot create a greater density than the original designation of density provided in the R.C. 2 legislation. The subdivision of an R.C. 2 zone lot of record is subject to the Baltimore County Zoning Regulations for residential development plans.

Section 1A00.4 BCZR provides as follows:

"Plans and Plats. [Bill No. 98-75]"

Development Plans and Final Subdivision Plats shall be required in the manner prescribed under subsection 1B01.3 and for the purpose of this subsection all references to D.R. zones shall include the R.C. zones. [Bill No. 98, 1975]"

Section 1B01.3A of BCZR sets forth the requirements to subdivide and develop R.C. 2 property.

However, subdivision may take place which does not require compliance with the development procedures found in the Baltimore County Code, Article V, Section 26-166, et seq. Section 26-170 of the Baltimore County Code provides:

"General exemption. The subdivision of land for agricultural purposes is exempt from those regulations if no new streets are involved, subject to compliance with all applicable zoning regulations. [Code 1978, § 22-41; Bill No. 18, 1980, § 2]"

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