



IN RE: PETITION FOR SPECIAL HEARING
E/side of Sagamore Forest Lane, 670 feet
+/- S of c/l of Worthington Avenue
4 th Election District
2 nd Councilmanic District
(12807 Sagamore Forest Lane
proposed Lot 6A)

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

David and Dian Miller Legal Owner

CASE NO. 07-177-SPH

IN RE: PETITION FOR SPECIAL HEARING

E/side of Sagamore Forest Lane, 670 feet

+/- S of c/l of Worthington Avenue

4th Election District

2nd Councilmanic District

(12807 Sagamore Forest Lane proposed Lot 6B)

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

David and Dian Miller Legal Owner

CASE NO. 07-178-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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This matter comes before this Deputy Zoning Commissioner on Petitions for Special Hearing filed by the legal owners of the subject property, David and Dian Miller. The Petitioners are requesting the following:

Case No. 07-177-SPH: This property is located at 12807 Sagamore Forest Lane, proposed Lot 6A. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the creation of an undersized non-density parcel of land in an RC-2 zone, containing 0.5725 acres (24,939 square feet), a part of Lot 6A, as shown on the proposed Minor Subdivision Plan of "The David Miller Property @ Sagamore Forest" and with reference to Section 1A005.b.(1).c (ZCPM), to approve septic area location for Lot 6A to be located in an RC-2 zone in lieu of the required RC - 5 (i.e.: same zone as house).

7 - 2000 E



Case No. 07-178-SPH: This property is located at 12807 Sagamore Forest Lane, proposed Lot 6B. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the creation of an undersized non-density parcel of land in an RC-5 zone, containing 0.2446 acres (10,655 square feet), a part of Lot 6B, as shown on the proposed Minor Subdivision Plan of "The David Miller Property @ Sagamore Forest" and with reference to Section 1A005.b.(1).c (ZCPM), to approve well location for Lot 6B to be located in an RC-5 zone in lieu of the required RC - 2 (i.e.: same zone as house).

The property was posted with Notice of Hearing on November 30, 2006, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on November 30, 2006, to notify any interested persons of the scheduled hearing date.

Applicable Law

TO 20 OC

Section 500.7 of the B.C.Z.R. Special Hearings

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) Comments are made part of the record of this case and contain the following highlights: ZAC comment letters were received from the Office of Planning dated October 30, 2006, and a copy of which is incorporated herein and made a part hereof the file. Also David Lykens, from the Department of Environmental Protection and Resource Management personally appeared at the hearing to indicate that DEPRM had no objection to either request.





Interested Persons

Appearing at the hearing on behalf of the requested special hearing were David and Diane Miller, Petitioners, and A.L. Snyder, Surveyor, who prepared the site plan. There were no protestants or citizens at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

The subject property is lot 6 of the Sagamore Forest Subdivision which was created in August 1976 as shown by the Section Four Sagamore Forest Subdivision Plat, exhibit 3. Lot 6 contains 4.0 acres and is split zoned RC 2 and RC 5 and is improved by the Petitioner's home which is located toward the rear of the lot away from Sagamore Forest Lane.

The Petitioner would like to subdivide their lot into two lots, 6A and 6B, as shown in exhibit 1. Lot A would contain 2.17 acres while lot 6B would contain 1.88 acres. Mr. Snyder indicated that he originally proposed to divide the lot along the RC 2/RC 5 zoning line shown. However because of a stream on the property and associated forest buffers there was not enough room for the septic reserve area. There were also problems locating good perc sites. As a result he proposed the configuration shown on exhibit 1.

However this configuration meant that part of the septic reserve area for lot 6A would be located in the RC 2 zoned portion of the lot. The existing house on lot 6A is in the RC 5 portion of the lot. Similarly the well for the proposed house on lot 6B would be in the RC 5 portion of the lot while the proposed house itself would be in the RC 2 portion. Thus the need for a special hearing.

Mr. Snyder explained that the 0.2 acre triangular portion of lot 6B on which the well is located would be a non density parcel. Similarly the 0.5 acre portion of lot 6A on which a small part of the septic reserve area for the existing house is located would be non density. He opined

that because lot 6 was a lot of record prior to 1979 when the RC 2 regulation went into effect, that portion of the property in the RC 2 zone is entitled to two lots. The RC 5 portion is entitled to one lot. Although together this property can support three dwellings, the Petitioners are proposing only two. However he agreed to clearly designate the two non density parcels as such in the land records to assure there would be no further use of these parcels for further subdivision.

In regard to community impact the Petitioners indicated that they contacted and kept informed the owner of the home closest to the proposed home, the Crossans, who had no objection to the proposed house. Ms. Miller indicated that they informed the Sagamore Forest Association who after some questions have no objection to the request. She also noted that the by laws of the Association limit lot owner to one subdivision of any lot. Mr. Miller noted that the lots in Sagamore Forest and this lot are heavily wooded and it is unlikely that the new home would be seen by the community.

Findings of Fact and Conclusions of Law

I find the requests for special hearing to be most reasonable and would be within the spirit and intent of the regulations. The proposed lots meet the minimum lot acreage, and the proposed house meets the setback regulations for the RC 2 zone. Lot 6 was created prior to 1979 when the RC 2 regulations were imposed. I have no problem agreeing that a 4 acre lot has two density units under the RC 2 regulations. It is a lot of record prior to 1979. However the RC 2 portion of lot 6 was not a lot of record prior to 1979 and in my view not entitled to two density units. I further find the RC 5 portion is not entitled to another density unit for a total of three density units. In my view once a Petitioner claims his subdivision under RC 2, the whole record lot of four acres is used in regard to density. I also realize that in this case, this issue is purely academic as the Petitioners are not trying to achieve three lots. I raise this matter only because the calculation of density is given in note 4 and I did not want to appear to have approved this note.

Taboon Care

In any case I also find that the proposed subdivision will not adversely affect the community if the non density status of the two parcels is clearly indicated in the land records. By recording this information in the land records, future buyers will be fully notified of the non density status and not seek to create more lots by lot line adjustment or otherwise. I note that the Planning Office deferred to DEPRM in this matter and that DEPRM does not oppose the request.

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

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore the County, this day of December, 2006, that special hearing relief for properties set forth as follows:

Case No. 07-177-SPH: The Special Hearing relief requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the creation of an undersized non-density parcel of land in an RC-2 zone, containing 0.5725 acres (24,939 square feet), a part of Lot 6A, as shown on the proposed Minor Subdivision Plan of "The David Miller Property @ Sagamore Forest" and with reference to Section 1A005.b.(1).c (ZCPM), to approve a part of a septic reserve area for Lot 6A to be located in an RC-2 zone in lieu of the required RC 5 zone as shown on Petitioner's exhibit 1, is hereby GRANTED; and

Case No. 07-178-SPH: The Special Hearing relief requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the creation of an undersized non-density parcel of land in an RC- 5 zone, containing 0.2446 acres (10,655 square feet), a part of Lot 6B, as shown on the proposed Minor Subdivision Plan of "The David Miller Property @ Sagamore Forest" and with reference to Section 1A005.b.(1).c (ZCPM), to approve a well for Lot

6B to be located in an RC-5 zone in lieu of the required RC - 2 as shown on Petitioner's exhibit 2, is hereby GRANTED;

both subject however to the following conditions precedent to the relief granted herein:

- 1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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 Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2. The Petitioner shall cause this Order showing the non density status of the parcels created to be recorded in the land records of Baltimore County prior to record plat

3. That the density calculation of note 4 is not approved.

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

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM:pz

IN THE MATTER OF
THE APPLICATION OF
DAVID AND DIAN MILLER -LEGAL
OWNERS /PETITIONERS FOR SPECIAL
HEARING ON PROPERTY LOCATED ON
THE E/S OF SAGAMORE FOREST LANE,
670' S OF C/L WORTHINGTON AVENUE
12807 SAGAMORE FOREST LANE

4TH ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT

- BEFORE THE
- * COUNTY BOARD OF APPEALS
- * OF
- * BALTIMORE COUNTY
- * CASE NO. 07-177-SPH and

CASE NO. 07-178-SPH

ORDER OF DISMISSAL OF PETITIONS

This case comes to the Board on appeal filed by Peter Max Zimmerman, People's Counsel for Baltimore County, and Carole S. Demilio, Deputy People's Counsel, from the December 26, 2006, decision of the Deputy Zoning Commissioner in which the subject Petitions were granted with restrictions.

WHEREAS, the Board is in receipt of a letter of withdrawal of Petitions in Case No. 07-177-SPH and Case No. 07-178-SPH filed on February 28, 2008, by Dian Miller and David Miller, Petitioners (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Petitioners request that the Petitions for Special Hearing filed in Case No. 07-177-SPH and Case No. 07-178-SPH be withdrawn and dismissed as of February 28, 2008,

IT IS THEREFORE this / 7¹⁴ day of March, 2008, by the County Board of Appeals of Baltimore County

ORDERED that said Petitions filed in Case No. 07-177-SPH and Case No. 07-178-SPH be and are hereby WITHDRAWN AND DISMISSED with prejudice, pursuant to Rule 3.b.II of the Board's Rules of Practice and Procedure, and that the Deputy Zoning Commissioner's Order dated December 26, 2006, including any and all relief granted therein, is rendered null and void.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Wendell H. Grier, Panel Chairman

Robert W. Witt,

Edward W. Crizer, Jr.

WE WISH TO HAVE THE FOLLOWING CASES DISMISSED: AND WITHDRAWN 07-177-SPH AND 07-178-SPH

Dim Milan

DAVID MillER
12290 GREEN MEADOW RO#113
Colombia MD 21044



County Board of Appeals of Baltimore County

JEFFERSON BUILDING SECOND FLOOR, SUITE 203 105 WEST CHESAPEAKE AVENUE TOWSON, MARYLAND, 21204 410-887-3180 FAX: 410-887-3182

March 17, 2008

Peter Max Zimmerman
People's Counsel for
Baltimore County
Suite 204, Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

RE: In the Matter of: David Miller and Dian Miller -Petitioners
Case No. 07-177-SPH and Case No. 07-178-SPH
Order of Dismissal of Petitions

Dear Mr. Zimmerman:

Enclosed please find a copy of the Order of Dismissal of Petitions issued this date by the County Board of Appeals of Baltimore County in the above-captioned matter in which the subject Petitions have been withdrawn and dismissed with prejudice.

Very truly yours,

Kathleen C. Bianco #

Administrator

Enclosure

c: Wayne G. Gracey, Esquire
David and Dian Miller
A. L. Snyder /Surveyor
Jacqueline Quad
Harry and Jennifer Abramson
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM



Petition for Specied Hearing

to the Zoning Commissioner of Baltimore County

(proposed lot 6A)

for the property located at 12807 Sagamore Forest Lane which is presently zoned RC 2 & RC 5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate 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 Commissioner should approve

Creation of an undersized non-density parcel of land in an RC 2 Zone, containing 0.5725 acres (24,939 sq ft), a part of

lot 6A, as shown on the proposed Minor Subdivision Plan of "The David Miller Property @ Sagamore Forest"

and section 1A00	5.6. (1). c (ZCP	M) - to appro	ve septic area locat (ie: same zone as	tion for lot GA to	be located i
Property is to be posted a	nd advertised as presch	ribed by the zoning			
			ursuant to the zoning law fo		-
	•			clare and affirm, under he legal owner (s) of the etition.	_
Contract Purchaser/Le	essee:		Legal Owner(s):		•
			David M. Miller.	. 1	
Name - Type or Print	<u> </u>	·····	Name - Type or Print		<u>. </u>
Signature			Signature		······································
Address	Tele	phone No.	Dian Miller Name - Type or Print		
City	Ctoto	7:n O-1-	DianMi	the	·
	State	Zip Code	Signature		
Attorney For Petitione	<u>r:</u>		12807 Sagamore Fo		lephone No.
			Glyndon,	MD	21071
Name - Type or Print		<u></u>	City	State	Zip Code
Signature			Representative to be	e Contacted:	
Company	·		A. L. Snyder	Surveyor, Inc	.
			1911 Hanover	Pike 410-239	9-7744
Address	Tele	phone No.	Address		lephone No.
City	State	Zip Code	<u>Hampstead, MI</u> City	21074 . State	Zip Code
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Jat	12-24-6-00			•	

Baltimore County, Maryland



OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse 400 Washington Ave. Towson, MD 21204

> 410-887-2188 Fax: 410-823-4236

PETER MAX ZIMMERMAN People's Counsel

January 19, 2007

CAROLE S. DEMILIO Deputy People's Counsel

Hand-delivered Timothy Kotroco, Director Department of Permits and Development Management 111 W. Chesapeake Avenue Towson, MD 21204

Re:

PETITION FOR SPECIAL HEARING

E/S Sagamore Forest Lane, 670' S of c/l Worthington Avenue

(12807 Sagamore Forest Lane proposed Lot 6A)

4th Election District; 2nd Council District David and Dian Miller- Petitioners

Case No.: 07-177-SPH

Dear Mr. Kotroco:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals from the Findings of Fact and Conclusions of Law dated December 26, 2006 by the Baltimore County Deputy Zoning Commissioner.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman

People's Counsel for Baltimore County

Carole S. Dernilio/Ryw

Carole S. Demilio

Deputy People's Counsel

PMZ/CSD/rmw

David & Dian Miller cc:

RECEIVED

JAN 19 2007
Per. M.M.



JAMES T. SMITH, JR. County Executive

December 26, 2006

WILLIAM J. WISEMAN III

Zoning Commissioner

DAVID AND DIAN MILLER 12807 SAGAMORE FOREST LANE GLYNDON MD 21071

Re: Petition for Special Hearing
Case No. 07-177-SPH located at 12807 Sagamore Forest Lane proposed Lot 6A
Case No. 07-178-SPH located at 12807 Sagamore Forest Lane proposed Lot 6B

Dear Mr. and Mrs. Miller:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy

Deputy Zoning Commissioner

John V. Murphy

for Baltimore County

JVM:pz

Enclosure

c: A.L. Snyder, 1911 Hanover Pike, Hampstead MD 21074

Baltimore County, Maryland



OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse 400 Washington Ave. Towson, MD 21204

> 410-887-2188 Fax: 410-823-4236

PETER MAX ZIMMERMAN People's Counsel

January 19, 2007

CAROLE S. DEMILIO Deputy People's Counsel

Hand-delivered

Timothy Kotroco, Director Department of Permits and Development Management 111 W. Chesapeake Avenue Towson, MD 21204

Re:

PETITION FOR SPECIAL HEARING

E/S Sagamore Forest Lane, 670' S of c/l Worthington Avenue

(12807 Sagamore Forest Lane proposed Lot 6A)

4th Election District; 2nd Council District David and Dian Miller- Petitioners

Case No.: 07-177-SPH

Dear Mr. Kotroco:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals from the Findings of Fact and Conclusions of Law dated December 26, 2006 by the Baltimore County Deputy Zoning Commissioner.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman

People's Counsel for Baltimore County

Carole S. Beinetio/eya

Pet Max Zumenn

Carole S. Demilio

Deputy People's Counsel

PMZ/CSD/rmw

cc: David & Dian Miller

RECEIVED

JAN 19 2007
Per. M.M.

IN RE: PETITION FOR SPECIAL HEARING

E/side of Sagamore Forest Lane, 670 feet

+/- S of c/l of Worthington Ave.

4th Election District

2nd Councilmanic District

(12897 Sagamore Forest Lane,

Proposed Lot 6A and 6B)

David and Dian Miller

Legal Owner

BEFORE THE

BOARD OF ZONING APPEALS

OF BALTIMORE COUNTY

CASE NO: 07-177-SPH

CASE NO: 07-178-SPH

ENTRY OF APPEARANCE

Dear Sir/Madam:

Kindly enter the appearance of the undersigned as attorney for David and Dian Miller.

Wayne G. Gracey, Esquire

WEINSTOCK, FRIEDMAN AND FREIDMAN, P.A.

4 Reservoir Circle

Baltimore, MD 21208

(410) 559-9000 x 254

IN RE:

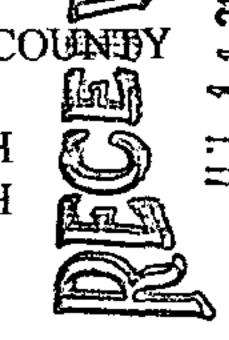
E/side of Sagamore Forest Lane. 670 feet +/- S. of Worthington Ave 4th Election District 2nd CouncilmanicDistrict (12897 Sagamore Forest Lane, Proposed Lot 6A and 6B) BEFORE THE

BOARD OF ZONING APPEAL

FOR BALTIMORE COUNTY

Case No: 07-177-SPH

Case No: 07-178-SPH



BAL TIMORE COUN BOARD OF APPEA

MEMORANDUM

Brief Factual History

The present owners of the property, David and Dian Miller petitioned the Zoning Commissioner for a Special Hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve an undersized non-density parcel of land in an RC-2 zone (Case No. 07-177-SPH) and an undersized non-density parcel of land in an RC-5 zone (Case No. 07-177-SPH. The proposed new lots were designated Lots 6A and 6B. The requested approval was also for a septic reserve area for Lot 6A and a well for Lot 6B. The existing dwelling is in Lot 6A while a proposed new dwelling would be located in Lot 6B. The current lot is a little over 4 acres and has split zoning with a majority of the lot in the RC-5 area and a smaller portion in the RC-2 area. The present owners of the property purchased the lot and existing home in 1994. The approved Sub-division preceded the current zoning law which went into effect in 1979.

This is an appeal from the decision of the Zoning Commissioner and a hearing was held on June 14, 2007 before the Board of Zoning Appeals. Ms. Dían Miller testified at the hearing as well as Mr. A.L. Snyder, professional surveyor who had done the Preliminary work as well as preparing the minor subdivision plan. Under the proposed

Sub-division the lot 6A would contain 2.17 acres while lot 6B would contain 1.88 acres. Ms. Miller testified that they had started the process over 4 years ago and spent nearly \$40,000 in seeking the proposed change. Mr. Snyder testified that he had considered sub-dividing the lot along the zoning boundary but that it was not feasible due to the topography of the land and a stream which runs within the property. Also there were some problems encountered in the perc tests which determined the placement of the well and septic. He also testified that he had complied with all the necessary zoning requirements and procedures. Notice had been previously given to nearby neighbors as well as the neighborhood association. Each of the new lots would be more than an acre which seemed to be the primary concern of the neighborhood association.

<u>Issue</u>

Is an existing 4 acre lot which existed prior to 1979, and is split by two zoning classifications namely RC-2 and RC-5, eligible to be sub-divided into two lots which would allow for the addition of another dwelling unit, specifically single family homes.

Suggested Answer

Yes

Discussion

Lot 6 was created in 1976 and is part of the Sagamore Forest subdivision, a cluster of Single family homes in an area of Baltimore County which includes other nearby development. The neighborhood could be described a semi-rural in character, due to the lot size and the fact that there are many trees which will protect the construction of a new home from being intrusive to nearby neighbors. The proposed subdivision will meet the minimum lot acreage and the proposed house will meet the minimum setback regulations for an RC-2 zone. The existing dwelling is in the RC-5 zone. Thus you are winding up

with one density unit per zone. In addition, the petitioners have agreed to clearly designate the two non density parcels in the land records so there can be no further argument for an additional dwelling unit or further subdivision.

A single family dwelling is a permitted use under both an RC-2 and an RC-5 classification. B.C.Z.R. 1A01.3 provides for at least one subdivision and as long as the setback requirements are met and the new lot created is not less than one acre the change should be permissible. The proposed new lot in the RC-2 zone will be 1.88 acres.

The proposed subdivision will have no adverse environmental impact. The Department of Environmental Protection and Resource Management has previously reviewed the proposed plan and changes and have stated they have no objection to the plan. The Sagamore Forest Homeowners Association have said they have no objections.

The proposed plan provides for separate ingress and egress to the respective properties.

There is no shared or common driveway area. The reason for the septic reserve area in one zone and the well in another was explained by the surveyor as a decision dictated by the land itself, the existing stream, and the results of the percolation tests. These minor deviations have no real impact. The proposed dwelling will be very unobtrusive.

The only reason for the request for the special hearing was the fact that the well for The proposed house on Lot 6B would be in the RC-5 portion of the lot while the Proposed home would be in the RC-2 portion. In <u>Hayfields, Inc v. Valley Planning</u>

<u>Council, Inc.</u>, 122 Md App 616, 716 A. 2d 311 (1998) the Court was dealing with A much larger and more complicated issue involving a large piece of property that was

split zoned in which the owners were proposing a mixed use to include a golf course and country club and were requesting a variance and special exception on several issues. In the present case, the owners are not asking for a mixed use or to exceed the number of dwellings that may be allowed. They are proposing a permitted use, and not asking for a special exception or a variance of any kind. The proposal fits within the character of the neighborhood. Again, they are in agreement to make a notation in the land records that no further sub-dividing and no additional dwellings will be allowed.

Conclusion

There is no sound reason to deny the request of the Petitioners. They have complied with zoning procedures and have spent a lot of time and expense in getting to this point. We respectfully request that this Honorable Board ratify the decision of the Zoning Commissioner.

Respectfully submitted,

Wayne G. Gracey, Esquire

WEINSTOCK, FRIEDMAN AND FRIEDMAN, P.A.

4 Resevoir Circle

Baltimore, MD 21208

(410) 559-9000 x254

Attorney for Petitioners

PETITION FOR SPECIAL HEARING RE:

12807 Sagamore Forest Ln (Proposed Lot 6A/B);

E/S Sagamore Forest Lane, 670' S c/line

Worthington Avenue

4th Election & 2nd Councilmanic Districts

Legal Owner(s): David & Dian Miller

Petitioner(s)

BEFORE THE BOARD

OF APPEALS

FOR

BALTIMORE

07-177-SPH & 07-178-SPHE COUNTY *BOARD OF APPEALS

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S MEMORANDUM

The County Board of Appeals convened its de novo hearing on June 14, 2007. The material facts are not genuinely in dispute. There are presented for the CBA's consideration several issues of law.

Questions Presented

- 1. Is it permissible to cross the zoning boundary to place infrastructure --- septic field and access road --- and yard area permitted in the R.C. 2 Agricultural Zone to support R.C. 5 Rural-Residential Zone residential development?
- 2. Does the proposed resubdivision satisfy relevant procedural requirements for amendments to development plans and, in particular, the tract density limits for amendments to subdivision plats?
 - 3. What additional problems are involved in the creation of a panhandle driveway?

The Crossing of Zoning Boundaries for Infrastructure

Lot 6 of Sagamore Forest, Section Four, is a split-zoned R.C.5/R.C. 2 property with an existing dwelling. The proposed resubdivision of would result in two new splitzoned lots. Proposed lot 6A shows the existing dwelling in the R.C. 5 (Rural-Residential) zone, but with part of the yard and septic reserve area, and the entire panhandle access driveway in the R.C. 2 (Agricultural) Zone. Case 7-177-SPHA. Proposed lot 6B shows the proposed new dwelling in the R.C. 2 Zone, with the well and part of the yard area in the R.C. 5 Zone. Case 7-178-SPHA.

The special hearing is to determine whether it is legally appropriate to create lots with infrastructure across the zoning boundary from the zone of the primary use. It has been our office's position that this is impermissible, and that we must assert this position consistently in order to maintain the integrity of the comprehensive zoning maps.

This issue is currently before the Court of Appeals in <u>People's Counsel v. Surina</u>, a case argued on April 11, 2007 and awaiting decision. There, the issue involved utilization of the R.C. 2 Zone for a stormwater management facility, part of the access road, and part of the yard areas for lots with dwellings in the R.C. 5 Zone. The decision in the <u>Surina</u> case could have an impact on the present case. We will advise the CBA and the Petitioner of the decision promptly after its publication.

Where the R.C. 2 Zone is used for infrastructure to support development in the R.C. 5 Zone, there is a concern that it undermines the legislative intent to preserve agriculture in the zone dedicated for that purpose. It also conflicts with the legislative purpose to treat tracts divided by zone boundaries as if each zone is a separate parcel. BCZR 1A00.5. P.C. Exh. 6, Page 1A-3.

Unlike <u>Surina</u>, the present case involves an existing subdivision created before the 1976 mapping of the R.C. 2 Zone. We do not believe, however, that this distinction is legally significant. The comprehensive zoning law does not authorize crossover of boundary lines based on a subjective judgment of the proposal as good or bad, or as

having substantial or minimal impact. That would just open the gates to case-by-case subjective evaluation of crossover proposals, without regard to legally objective standards. In other words, a bright-line clear rule is legally required and appropriate.

There was an analogous discussion in the Supreme Court's landmark zoning decision in Euclid v. Ambler Realty Co. 272 U.S. 365, 388 (1926). There, the property owner's challenge to the zoning map included the argument that the exclusion of industrial establishments was overbroad and would forbid inoffensive land uses. This spurred Mr. Justice Sutherland to make the following insightful observation,

"Here, however, the exclusion is in general terms of all industrial establishments, and it may thereby happen that not only offensive or dangerous industries will be excluded, but those which are neither offensive nor dangerous will share the same fate, But this is no more than happens in respect of many practice-forbidding laws which this court has upheld, although drawn in general terms so as to include individual cases that may turn out to be innocuous in themselves. Hebe Co. v. Shaw., 248 U.S. 297, 303, 39 S. Ct. 125, 63 L.Ed. 255; Pierce Oil Corp. v. City of Hope, 248 U.S. 498, 500, 39 S.Ct. 172, 63 L.Ed. 381. The inclusion of a reasonable margin, to insure effect enforcement, will not put upon a law, otherwise valid, the stamp of invalidity. Such laws may also find their justification in the fact that, in some fields, the bad fades into the good by such insensible degrees that the two are not capable of being readily distinguished and separated in terms of legislation."

To draw a zoning boundary necessarily involve legislative judgment. To cross it for infrastructure is a kind of disguised rezoning. If a property owner believes the line is bad and should be drawn elsewhere, then his or her remedy is to request a legislative rezoning.

Having said that, we add that the proposal here creates a panhandle driveway for proposed lot 6A, which thus would be a panhandle lot. The relevant law in Baltimore County Code Sec. 32-4-409 discourages panhandle driveways and lots. PC Exh. 3. There

is no evidence in the record to show that the proposed panhandle driveway satisfies the standards set forth in Code Sec. 32-4-409(a).

So far, we have discussed the immediate proposal and the situation involving a crossover into the R.C. 2 Agricultural Zone. But the concerns are much broader in scope. The crossover of a zoning boundary line here will serve as a precedent for other crossover problems, with more dramatic impact. For example, there could be business and industrial proposals to use adjacent residential zones for infrastructure, whether it be stormwater management, refuse disposal, roads, or other supporting uses.

Petitioners have advanced some personal and financial reasons why it is important to them to secure approval of this resubdivision. We are sympathetic to that. Nevertheless, they already have a very valuable property, which has increased substantially in value since purchased in 1995. Most property owners have sympathetic reasons to support their proposals. But the zoning law does place controls on the use of property, and this office is obligated to defend the zoning maps and their underlying principles on a consistent basis.

If the zoning law were considered to be a custom to be preempted by every sympathetic proposal, it would collapse like a house of cards. In contrast to the custom described by Shakespeare's Hamlet, it would not be "a custom more honored in the breach than the observance."

II. Amendment of the Final Development Plan; Procedure; Density Exceedance A. The Legal Framework

It is this office's position that the proposal for resubdivision is subject to the zoning law which governs amendments to final development plans, and that Petitioner has failed to file the required special hearing for review under this law. In addition, the proposal conflicts with the provision of the current law which precludes resubdivision which exceeds the density limits for the entire tract.

It should be emphasized that zoning proposals must be reviewed under current law, in the absence of vested rights. Even if zoning laws change during litigation, the new law applies. Powell v. Calvert County 368 Md. 400 (2002); Layton v. Howard County 399 Md. 36 (2007). While the rights here have vested with respect to the existing lots and dwellings, there are no vested rights for amendments, for resubdivision, or for newly created lots. It is an error to approve a zoning proposal which disregards, ignores or conflicts with applicable law. Riffin v. People's Counsel 137 Md. App. 90, 96 (2001). It is also elementary that subdivision or development proposals and amendments must comply with present zoning law. Baltimore County Code Secs. 32-4-104 and 32-4-262.

B. History of the Sagamore Forest Subdivision

The Baltimore County authorities approved the Sagamore Forest Subdivision Plat in 1976. PC Exh. 4. At the time, the applicable zoning classification was R.D.P. (Rural Deferred Planning), which allowed one lot per acre, subject to satisfactory percolation tests, under then BCZR 1A00.3.B.1. As A.L. Snyder, the surveyor acknowledged, there

was a development plan approved prior to the recording of the subdivision plat. That was the final development plan governing this subdivision.

The subdivision plan and plat created 25 lots on 55 acres. Careful review of the zoning line shown on current site plan (Pet. Exh. 1) along with 1976 plat (PC Exh. 4) reveals that 22 lots are in the area now zoned R.C. 2, as well as part of Lot 6. These lots occupy about 42 acres. Two lots are in the R.C. 5 Zone area, along with the part of Lot 6 occupied by the existing dwelling. This area appears to amount to about 13 acres.

C. Evolution of the Zoning Law: R.D.P., R.S.C. and R.C. Zones

In 1975, the County Council replaced the R.D.P and companion R.S.C. (Rural Suburban Conservation) Zones with a set of Resource Conservation Zones. Bill 98, 1975. See Security Management v. Baltimore County 104 Md. App. 234, cert. denied 339 Md. 643 (1995). In Bill 178-79, the Council amended the law. This included the current R.C. 2 density standard which allows just two dwellings on lots of record between 2 and 100 acres. BCZR 1A01.3.B.1. P.C. Exh. 6, Page 1A-10. Clearly, the Sagamore Forest Subdivision could not be developed from scratch under current law.

In other words, this subdivision already exceeds current density limits. The area zoned R.C. 2 could accommodate just two dwellings under current law, instead of the platted 20. These lots are legal only because the subdivision predated the enactment and implementation of the Resource Conservation Zones.

D. Bill 100, 1970 and Bill 98, 75, Controls on Final Development Plan Amendments

Separately, in Bill 100, 1970, the Council established controls for amendments of Final Development Plans in Density Residential Zones. BCZR 1B01.3. See PC Exh. 6, Page 1B-16. As part of Bill 98, 1975, the Council incorporated these controls in the Resource Conservation Zone regulations. BCZR 1A00.4. PC Exh. 6, Page 1A-3.

These controls include the requirement of a public hearing to review whether an amendment of a final development plan satisfies special exception standards and is consistent with the original subdivision plan. BCZR 1B01.3.A.7. PC Exh. 6, Page 1B-18. There is also a significant substantive density provision applicable to the amendment of subdivision plats. It explicitly limits the density with respect to the entire tract. BCZR 1B01.3.B.2 states, in its concluding sentence,

"It is the intent of these zoning regulations to prohibit subdivision or resubdivision of portions of a tract in a D.R. Zone in a manner so as to exceed the total number of dwelling or density units allowed under the applicable D.R. Zone(s) for the entire tract."

E. Failure to Follow or Satisfy the Law Governing FDP Plan Amendments

In the present case, the petition for special hearing is irregular and insufficient, as a matter of law, because it does not include the required petition to amend the final development plan. For the purpose of zoning law, the final development plan is the last approved development plan for the subdivision. The provisions of Bill 100, 1970 with respect to FDP amendments of D.R. Zones have survived without significant substantive amendments to the present day. As noted, the Council expanded their scope in Bill 98, 1975 to incorporate the Resource Conservation Zones.

The Court of Appeals has illuminated the different functions of zoning law and subdivision (or development) law. Remes v. Montgomery County 387 Md. 52 (2005). Zoning law establishes basic land use controls. Subdivision law provides additional regulatory controls to assure adequate roads, water, sewer, open space, and other facilities. To be sure, there are interrelationships and areas of overlap. But the zoning law is the more basic law, and subdivisions must comply with zoning law as well as the detailed subdivision or development regulations.

Over the years, Baltimore County subdivision law has used various names for development plans at various times. During the 1970s, the Planning Board approved development plans and plats under then Sec. 22-37 of the County Code. In 1982, the Council enacted Bill 56-82 and created the County Review Group (CRG). The development plans were then called CRG plans, and at that time subject to approval under Code Sec. 22-58. In 1992, with Bill 1-92, the law established the current Hearing Officer for review of development plans under Code Sec. 32-4-229. For the purpose of the zoning law, the final approved plans under each of these regimes --- Planning Board, CRG, and Hearing Officer --- were the FDPs controlled by BCZR 1B01.3 and 1A00.4.

In a nutshell, Petitioners here have disregarded and ignored the zoning law governing amendments to final development plans. The apparent failure of the zoning office to require this petition is immaterial. An administrative agency may not bypass its governing law. <u>Vest v. Giant Food Stores</u> 329 Md. 461, 475-76 (1993). The County Board of Appeals may deny the petition on this basis alone.

In any event, even if a proper petition for FDP Amendment had been filed, the CBA would have to deny it on the merits. The proposal conflicts with the density controls applicable to FDP amendments. It also creates a panhandle driveway and panhandle lot purely for the convenience of additional development and not based on any of the pertinent statutory criteria. The density issue looms especially large and has major implications for land use throughout the Resource Conservation Zones. Because of its public importance, we now address it separately.

F. Exceedance of the Density Limits for the Entire Tract

As noted, the Sagamore Forest subdivision already exceeds by ten times the current density standards with respect to the area zoned R.C. 2. It is not permissible to add to this excess by resubdivision.

In proposing a new dwelling in the R.C. 2 Zone, Petitioners are adding a 23rd dwelling to the 22 now present in an R.C. 2 area of about 42 acres now zoned for a maximum of two dwellings. That the subdivision predates the enactment of the R.C. Zones and already exceeds current limits is not an excuse for adding to the excess. It would be incongruous, ironic, unfair, and contrary to the legislative purpose to allow open season for resubdivision of relatively small lots in existing old subdivisions while restricting so significantly the new development of unimproved parcels.

BCZR 1B01.3.B.2 explicitly forbids such a resubdivision for D.R. (Density Residential) Zones. BCZR 1A00.4 has incorporated this provision for implementation in the R.C. (Resource Conservation) Zones. The conflict here is major. The present law forbids this resubdivision.

As with the zoning boundary crossover issue, there also are broader concerns. The allowance of additional density in the Agricultural Zone here would stand as a precedent for the many other R.C. 2 lots in the Sagamore Forest subdivision, as well as other R.C. 2 lots around Baltimore County. The legislative purposes of the Agricultural Zone include the preservation of agriculture and the control of sprawl. It does not serve these purposes to accept and encourage additional development in existing subdivisions which already exceed the current density standards. Sprawl occurs incrementally and cumulatively. The allowances of one lot here, another there, and then others near and far aggravate the serious problem of urbanization which the County Council sought to counteract.

The present case is one of several cases pending before the County Board of Appeals involving essentially the same issue. The question is whether it is permissible to resubdivide lots in relatively dense older existing subdivisions, which already collectively exceed the R.C. 2 lot density limits for the entire tract. For the reasons stated above, it is our office's consistent position that this is not allowed.

Conclusion

For all of the above reasons, the petitions for special hearings filed in these companion cases should be denied, as a matter of law. They are objectionable both with respect to the relevant law and their incremental damage to the structure of the comprehensive zoning map and the density controls in the Agricultural Zones.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CAROLE S. DEMILIO Deputy People's Counsel Old Courthouse, Room 47 400 Washington Avenue Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of July, 2007, a copy of the foregoing People's Counsel for Baltimore County's Memorandum was mailed to Wayne G. Gracey, Esquire, 4 Reservoir Circle, Baltimore, MD 21208, Attorney for Petitioner(s).

People's Counsel for Baltimore County

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OUCE OF ZONING HEABING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #07-177-SPH
12807 Sagamore Forest Lane (proposed Lot 6A)
Eside of Sagamore Forest Lane (proposed Lot 6A)
Eside of Sagamore Forest Lane, 670 feet +/- south of centerline of Worthington Avenue
4th Election District - 2nd Councilmanic District
Legal Owner(s): David & Dian Miller
Special Hearing: to approve the creation of an undersized non-density parcel of land in an RC-2 Zone, containing 0.5725 acres (24,939 sq. ft.), a part of Lot 6A, as shown on the proposed Minor Subdivision Plan of The David Miller Property @ Sagamore Forest and Section 14005.b(1)c(2CPM) - to approve septic area location for Lot 6A to be located in an RC-2 Zone in lieu of the required RC-5 (i.e. same zone as house).

Hearing: Friday, December 15, 2006 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue,

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for
special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.

(2) For information concerning the File and/or Hearing,
Contact the Zoning Review Office at (410) 887-3391.

11/380 November 30

OF PUBLICATION

THIS IS TO CERFIFY, that the annexed advertisement was published successive weeks, the first publication appearing paper published in Baltimore County, Md., in the following weekly newsp each of

☑ The Jeffersonian

- Arbutus Times
- Catonsville Times
- Owings Mills Times

Towson Times

- NE Booster/Reporter
- North County News

Mulus.

LEGAL ADVERTISING

Requested: 4/18/2007

APPEAL SIGN POSTING REQUEST

CASE NO. 07-177-SPH

12807 SAGAMORE FOREST LANE

4th ELECTION DISTRICT

APPEALED: 1/19/2007

ATTACHMENT - (Plan to accompany Petition - Petitioner's Exhibit No. 1)

COMPLETE AND RETURN BELOW INFORMATION*

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals 400 Washington Avenue, Room 49 Towson, MD 21204

Attention: Kathleen Bianco

Administrator

CASE NO.: 07-177-SPH

LEGAL OWNER: DAVID & DIAN MILLER

This is to certify that the necessary appeal sign was posted conspicuously on the prope located at:					
	7 SAGAMORE FOREST LANE				
The sign was posted on	, 2007.				
By: (Signature of Sign Poster)	——————————————————————————————————————				
(Decimal Non-con)	· 				

Dear Kathleen Bingo

My wife and I have been in the process of sub dividing a lot. This process has taken over 4 years. We finally got the approval for the subdivision when the people's council filed an appeal. We have put over \$40,000 into the process and we are both unemployed and must sell our house, but to sell it without the subdivision would be a tremendous loss. Is there anyway we could file an emergency appeal to have the appeal heard as soon as possible. Our situation is extreme and would appreciate it if you could grant us this request.

Thank you in advance

David and Dian Miller 12807 Sagamore Forest Lane Reisterstown Md. 21136

Case no 07177 and 07178

Requested: 4/18/2007

APPEAL SIGN POSTING REQUEST

CASE NO. 07-177-SPH

12807 SAGAMORE FOREST LANE

4th ELECTION DISTRICT

APPEALED: 1/19/2007



BALTIMORE COUNTY BOARD OF APPEALS Delicant House 1510. Coorty 12004 1200 Loonly House 1510. Coorty 1210. Coorty 1210.

CERTIFICATE OF POSTING

Baltimore_County_Department.of_ _

County Office Building, Room 111

6:45 Am

Permits and Development Management

111 W. Chesapeake Avenue Towson, MD 21204 Attention: Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property at The sign(s) were posted on (Month/Day/Year) Sincerely,-(Signature of Sign Posted Date) (Printed Name) SHANNON-BAUM SIGNS INC. 105 COMPETITIVE GOALS DR. ELDERSBURG, MD. 21784 410-781-4000

RE: Case No.: 07-177-SPH

Petitioner/Developer:____

Date of Hearing/Closing:

Department of Permits and Development Management

Director's Office
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3353 • Fax: 410-887-5708



Baltimore County

James T. Smith, Jr., County Executive Timothy M. Kotroco, Director

November 13, 2006

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 07-177-SPH

12807 Sagamore Forest Lane (proposed Lot 6A)
E/side of Sagamore Forest lane, 670 feet +/- south of centerline of Worthington Avenue
4th Election District — 2nd Councilmanic District
Legal Owners: David & Dian Miller

Special Hearing to approve the creation of an undersized non-density parcel of land in an RC-2 Zone, containing 0.5725 acres (24,939 sq. ft.), a part of Lot 6A, as shown on the proposed Minor Subdivision Plan of "The David Miller Property @ Sagamore Forest" and Section 1A005.b(1)c(ZCPM) – to approve septic area location for Lot 6A to be located in an RC-2 Zone in lieu of the required RC-5 (i.e. same zone as house).

Hearing: Friday, December 15, 2006 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco

Muthy Kotroco

Director

TK:klm

C: David & Dian Miller, 12807 Sagamore Forest Lane, Glyndon 21071 A.L. Snyder, 1911 Hanover Pike, Hampstead 21074

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, NOVEMBER 30,2006

- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) 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 (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:				
Item Number or Case Number: <u>07-177-5PH</u>	·			
Petitioner: DAVID & DIAN MILLER				
Address or Location: 12807 JAGAMORIE TOREST LANG	RASTARSTOWN MO.			
	21134			
PLEASE FORWARD ADVERTISING BILL TO:	, •			
Name: DIAN MILLEIZ	<u> </u>			
Address: 12807 SAGAMORIE FORIEST LANGE				
REISTIMESTOWN, MARYLAND 21134	·			
1				
Telephone Number: 410, 833 · 5656				



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director

Department of Permits and

Development Management

December 7, 2006

David M. Miller Dian Miller 12807 Sagamore Forest Lane Glyndon, MD 21071

Dear Mr. and Mrs. Miller:

RE: Case Number: 07-177-SPH, 12807 Sagamore Forest Lane (proposed Lot 6A)

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 18, 2006.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.

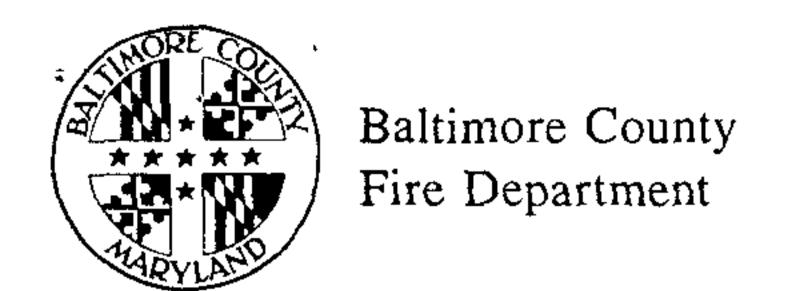
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel

A.L. Snyder, Surveyor, Inc. 1911 Hanover Pike Hampstead 21074



Office of the Fire Marshal 700 East Joppa Road Towson, Maryland 21286-5500 410-887-4880

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204 October 31, 2006

ATTENTION: Zoning Review Planners

Distribution Meeting Of: October 23, 2006

Item Number(s): 170 through 182

177

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

1. The Fire Marshal's Office has no comments at this time.

Lieutenant Roland P Bosley Jr. Fire Marshal's Office 410-887-4881 (C)443-829-2946 MS-1102F

cc: File





Robert L. Ehrlich, Jr., Governor Michael S. Steele, Lt. Governor

Robert L. Flanagan, Secretary Neil J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: October 31, 2006

Baltimore County

Item No. 7-177-5PH

MILLER PROPERTY

1280 7 SAGAMORE FORESTLANE

DOECIAL HEARING-APPRINE

CKENTION OF AN UNDERSIZED

MON - DEMONTY PARCEL

Ms. Kristen Matthews Baltimore County Office Of Permits and Development Management County Office Building, Room 109 Towson, Maryland 21204

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No.7-1775PH.

RE:

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

Engineering Access Permits

Division

SDF/MB

Jm 12/15

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: October 30, 2006

RECEIVED

OCT 3 7 2006

ZONING COMPANIER

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

12807 Sagamore Forest Lane (lot 6b)

INFORMATION:

Item Number: 7-177 (also see 7-178)

Petitioner:

David and Dian Miller

Zoning:

RC 2 and RC 5

Requested Action:

Special Hearing

The property in question is a split-zoned lot in Sagamore Forest Section 4 lot 6 that is being resubdivided into two lots, 6A and 6B. The request is for the creation of a non-density parcel of 5.7 acres as shown on the minor subdivision plan of the David Miller Property @ Sagamore Forest. This is to allow the septic area to be located in the RC2 zone instead of the RC5 zone, which is the location of the existing dwelling on proposed lot 6A.

SUMMARY OF RECOMMENDATIONS:

Under normal circumstances, the Office of Planning does not support placement of the septic in an RC2 zone, (Resource Conservation, Agricultural zone), if the dwelling is not located within that zone. However, the plan shows only a very small portion of the 10,000 square foot septic area within the RC2 zone. It is unclear if the .57-acre parcel is shown as such for the possibility of future expansion of the septic area.

The Office of Planning defers to the Department of Environmental Protection and Resource Management regarding this issue of allowing the non-density parcel for septic area in the RC2 zone.

For further information concerning the matters stated here in, please contact Diana Itter at 410-887-3480.

Prepared by:

Division Chief:

AFK/LL: CM

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: October 26, 2006

Department of Permits & Development

Management

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For October 30, 2006

Item Nos. 07-170, 171, 172, 174, 175, 176, (177) 178, 179, 180, 181. and 182

The Bureau of Development Plans Review has reviewed the subject zoning items and we have no comments.

DAK:CEN:clw

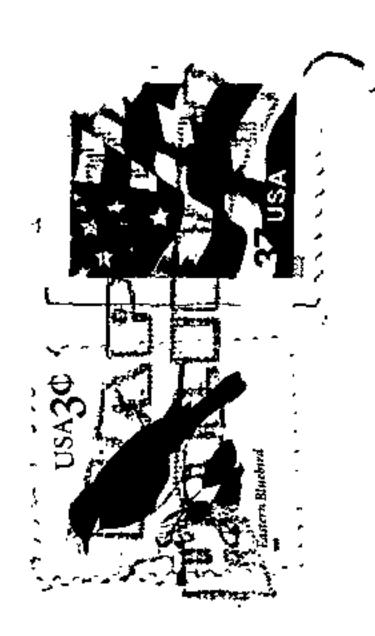
cc: File

ZAC-NO COMMENTS-10262006.doc

12807 Sagarnore Forest Lane Reisterstown, MD 21136

BALTIMORE NO 212

17 DEC 2006 PM 1 L



ZONING COMMISSIONER OF Balto, GOUNTY
COUNTY GUNTS BUILDING
ROOM YOS
TOWSON MD 21204

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Print - Close Window

YAHOO! MAIL

From: "Bruce and Margareta Galanter" <mbgalant@comcast.net>

To: "Bruce and Margareta Galanter" <mbgalant@comcast.net>

Subject: FW: Subdivision 12807 Sagamore Forest Lane

Date: Sun, 3 Dec 2006 16:10:27 -0500

RECEIVED

DEC 1 9 2006

ZONING COMMISSIONER

Dear Neighbors,

•

Kevin Kamenetz, our Baltimore County Councilman, has sent me a notice of a hearing before the Zoning Commission on December 15, 2006 and asked that I forward to you information regarding the hearing. The full notice of the proposed subdivision is posted in front of the property at 12807 Sagamore Forest Lane. I have called the Zoning office and talked to a planer as well as communicated with the owner, Dian Miller and her surveyor. Here is the summary of the information:

- 1. Cases 7-177-SPH ad 7-178-SPH
- 2. Hearing date Friday, December 15, 2006 at 9 and 10 AM 401 Bosley Ave, Room 407, Towson 21204
- 3. Purpose: create two undersized non-density lots (no building permitted) so that the property at 12807 Sagamore Forest Lane may be divided into two lots, one for the existing house and one (over one acre) for an additional wooded home site. The current property has over 4 acres according to the plats.
- 4. The lots identified as 6A and 6B will be used for a small portion of the septic area for the new lot and also for a well.
- The reason for the new non-density lots is technical and is caused by the fact that the current property crosses the line between RC5 and RC2 zones.
- 6. The covenants which used to prohibit subdivisions have expired.
- The Miller's house is also for sale.

Anyone who opposes the subdivision should attend the meeting. The Board has discussed the issue and in that the new lot is over one acre, has no objections.

Sincerely,

Bruce Galanter
President
Sagamore Forest, Worthington Hillside Community Association

Email
RE: 12807 SAGAMORE FOREST LANE
LOT 6A

OWNERS Dave + DIAN MILLER

A. L. Snyder Suweyor, Inc. 1911 Hanover Pike Hampstead, Maryland 21074

(410) 239-7744

410374969<u>5</u>

(410) 374-9695

TRANSMITTAL SHEET

700 12,200
Date
Please deliver the following pages to:
Name: Pany
Company: BALTO CO. ZONING
Fax Number: 410 887 3468
Total Number of Pages (including transmittal sheet):3
Sender: BETH SNINER_
If any problems occur, please call (410) 239-7744 and ask for Sender. Thank you. Comments:
The information contained in this facsimile message is confidential information intended only for the use of the individual or entity named above If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you. This facsimile will be confirmed by U.S. Mail. Yes

A. L. Snyder

Surveyor, Inc.

1911 Hanover Pike

Hampstead, Maryland 21074

(410) 239-7744

(410) 374-9695 phone/fax

Zoning Description

David M. Miller & Dian Miller Property

Lot 6A

September 21, 2006

Beginning on the east side of Sagamore Forest Lane, approximately 650 feet south of Worthington Avenue; thence,

- 1.) N 76° 41′ 50″ E 380.00 feet,
- 2.) S 61° 14′ 59" E 187.50 feet,
- 3.) S 49° 19′ 32″ W 196.44 feet,
- 4.) N 24° 32′ 34″ W 11.98 feet,
- 5.) N 3° 48′ 51″ W 150.33 feet,
- 6.) N 36° 52′ 12″ W 39.15 feet,
- 7.) S 76° 41′ 50″ W 302.08 feet,
- 8.) by a line curving to the left with a radius of 630.00 feet for a distance measured along the arc of 20.00 feet, which arc is subtended by a chord bearing N 11° 51′ 33″ W 20.00 feet to the point of beginning.

Containing 0.5725 acres of land, more or less.

Being a part of that land which was conveyed to David M. Miller and Dian Miller from Adam F. Woltman and Felice Jill Woltman, his wife, by deed dated December 28, 1994 and recorded among the Land Records of Baltimore County, Maryland in Liber S.M. 10912 folio 504 etc., known as Lot 6 of Section Four, Sagamore Forest, recorded among the said Land Records in Plat Book E.H.K., Jr. 39 folio 122 and also known as #12807 Sagamore Forest Lane and located in the Fourth Election District and Third Councilmanic District of Baltimore County, Maryland.

Item #177



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director

Department of Permits and

Development Management

February 26, 2007

David Miller Dian Miller 12807 Sagamore Forest Lane Glyndon, MD 21071

Dear Mr. and Mrs. Miller:

RE: Case: 07-177-SPH, 12807 Sagamore Forest Lane, proposed Lot A

Please be advised that an appeal of the above-referenced case was filed in this office on January 19, 2007 by The People's Counsel of Baltimore County. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely

Timothy Kotroco Director

TK:amf

c: William J. Wiseman III, Zoning Commissioner Timothy Kotroco, Director of PDM People's Counsel A.L. Snyder 1911 Hanover Pike Hampstead 21074

APPEAL

Petition for Special Hearing 12807 Sagamore Forest Lane East side of Sagamore Forest Lane, 670 feet south of centerline Worthington Avenue 4th Election District – 2nd Councilmanic District Legal Owners: David and Dian Miller

Case No.: 07-177-SPH

Petition for Special Hearing (October 18, 2006)

Zoning Description of Property – None

Notice of Zoning Hearing (November 13, 2006)

Certification of Publication (November 30, 2006)

Certificate of Posting (November 30, 2006) by Shannon-Baum Signs, Inc.

Entry of Appearance by People's Counsel (October 30, 2006)

Petitioner(s) Sign-In Sheet – 1 Sheet

Protestant(s) Sign-In Sheet – None

Citizen(s) Sign-In Sheet - None

Zoning Advisory Committee Comments

Petitioners' Exhibit

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- 1) Plat to accompany petition
- 2) Plat to accompany petition
- 3) Location plan

Protestants' Exhibits: None

Miscellaneous (Not Marked as Exhibit)

E-mail from Worthington Hillside Community Association

Deputy Zoning Commissioner's Order (GRANTED in accordance w/order - December 26, 2006)

Notice of Appeal received on January 19, 2007 from The People's Counsel

People's Counsel of Baltimore County, MS #2010
 Zoning Commissioner/Deputy Zoning Commissioner
 Timothy Kotroco, Director of PDM
 A.L. Snyder 1911 Hanover Pike Hampstead 21074
 David and Dian Miller 12807 Sagamore Forest Lane Glyndon 21071

date sent February 26, 2007, amf

APPEAL

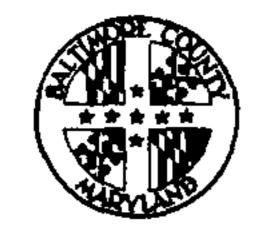
Petition for Special Hearing
12807 Sagamore Forest Lane
East side of Sagamore Forest Lane, 670 feet south of centerline Worthington Avenue
4th Election District – 2nd Councilmanic District
Legal Owners: David and Dian Miller

	Case No	.: 07-177-SPH
V	Petition for Special Hearing (October 18, 2006	3)
V	Zoning Description of Property – None	
0	Notice of Zoning Hearing (November 13, 2006	3)
1	Certification of Publication (November 30, 200	06)
0	Certificate of Posting (November 30, 2006) by	Shannon-Baum Signs, Inc.
	Entry of Appearance by People's Counsel (Od	
/	Petitioner(s) Sign-In Sheet – 1 Sheet	
•	Protestant(s) Sign-In Sheet – None	
•	Citizen(s) Sign-In Sheet - None	
	Zoning Advisory Committee Comments	A diagont magnetic significant and a 11 14 C1
し	Petitioners' Exhibit 1) Plat to accompany petition 2) Plat to accompany petition 3) Location plan	Adjacent property owners; added to file: HARRY AND JENNIFER ABRAMSON 12805 SAGAMORE FOREST LANE REISTERSTOWN MD 21136
ļ	Protestants' Exhibits: None	<u></u>
V	Miscellaneous (Not Marked as Exhibit) 1) E-mail from Worthington Hillsid	e Community Association
_	Deputy Zoning Commissioner's Order (GRAN	TED in accordance w/order - December 26, 200
/	Notice of Appeal received on January 19, 200	7 from The People's Counsel
	c: People's Counsel of Baltimore County,	MS #2010

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
A.L. Snyder 1911 Hanover Pike Hampstead 21074
David and Dian Miller 12807 Sagamore Forest Lane Glynden 21071

date sent February 26, 2007, amf

Jacqueline QUAD 12803 Jagamore Forest La. 21134



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 410-887-3180 FAX: 410-887-3182

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

May 14, 2007

NOTICE OF ASSIGNMENT

CASE #: 07-177-SPH

IN THE MATTER OF: DAVID AND DIAN MILLER – Legal Owners

/Petitioners 12807 Sagamore Forest Lane / Proposed Lot 6A

4th Election District; 2nd Councilmanic District

and

CASE #: 07-178-SPH

IN THE MATTER OF: DAVID AND DIAN MILLER - Legal Owners

/Petitioners 12807 Sagamore Forest Lane /Proposed Lot 6B 4th Election District; 2nd Councilmanic District

12/26/2006 - D.Z.C.'s decision in which requested zoning relief was GRANTED with conditions.

ASSIGNED FOR:

THURSDAY, JUNE 14, 2007 at 10:30 a.m.

NOTICE:

This appeal is an evidentiary hearing; therefore, parties should consider the

advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco Administrator

c:

Appellant

: Office of People's Counsel

Legal Owners /Petitioners

: David and Dian Miller

A. L. Snyder/Surveyor

Jacqueline Quad Harry and Jennifer Abramson

William J. Wiseman III /Zoning Commissioner Pat Keller, Planning Director Timothy M. Kotroco, Director /PDM



Printed with Soybean Ink on Recycled Paper



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 410-887-3180 FAX: 410-887-3182

July 31, 2007

SECOND NOTICE OF REASSIGNMENT OF DELIBERATION

IN THE MATTER OF:

DAVID AND DIAN MILLER – Legal Owners /Petitioners Case No. 07-177-SPH and Case No. 07-178-SPH

which had been postponed to 9/11/07 has been **REASSIGNED** to an earlier date, upon confirmation of availability of Board members; and has been **reassigned** for the following date and time:

DATE AND TIME

TUESDAY, AUGUST 21, 2007 at 9:00 a.m.

LOCATION

Hearing Room 48, Basement, Old Courthouse

NOTE: Closing briefs were filed on 7/11/07.

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco Administrator

c:

Appellant

: Office of People's Counsel

Counsel for Legal Owners /Petitioners

Legal Owners /Petitioners

: Wayne G. Gracey, Esquire: David and Dian Miller

A. L. Snyder/Surveyor

Jacqueline Quad Harry and Jennifer Abramson

William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

FYI: 4-6-7

Dian Miller 12807 Sagamore Forest Lane Reisterstown MD 21136

To the members of the Board of Appeals

Regarding this postponement, I realize there is a scheduling conflict. My ex husband and I, sold our photo lab business that we had for 18 years and walked away with no proceeds due to the changing emerging technologies. We are in a separation, and the property settlement has reached a critical juncture.

The only saving grace was selling the 1.25 acres of land that had been delayed because of the People's Counsel Appeal. Knowing the outcome of the decision will determine if we should borrow more money to stick this out. Foreclosure is looming, and we have turned to friends and family for the necessary money to get us to the June 31st decision. It was hard to loose a business after 18 years but now the possibility of loosing a home is becoming a very real possibility. I never would imagine a scheduling conflict could hold such ramifications. Sorry to inconvenience you in even asking, but we are that desperate.

Is it possible to request a date sooner than Sept 11?

Dian & Dave Miller

Lam Mom Damm

JUL 2 6 2007

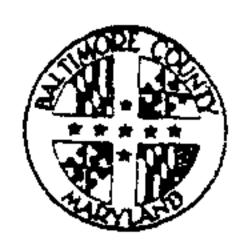
BALTIMORE COUNTY
BOARD OF APPEALS

Full Address in Standard Format

12807 SAGAMORE FOREST LN REISTERSTOWN MD 21136-1814

Verify above address for David and Dian Miller – is this correct? Why does file show Glyndon 21071 for 12807 Sagamore Forest Lane?

Charles min



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 410-887-3180 FAX: 410-887-3182

November 15, 2007

Wayne G. Gracey, Esquire WEINSTOCK, FRIEDMAN AND FRIEDMAN, P.A. 4 Reservoir Circle Baltimore, MD 21208

Peter M. Zimmerman
People's Counsel for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: In the Matter of: David and Dian Miller -Petitioners
Case No. 07-177-SPH and Case No. 07-178-SPH

Dear Counsel:

In his closing Memorandum in Case No. 07-177-SPH and Case No. 07-178-SPH, People's Counsel raised the case of *People's Counsel for Baltimore County, et al. v. Dorothy Surina, et al., No. 111, Sept. Term 2006.* Since that time, the Court of Appeals has come down with an Opinion in that matter.

The Board feels that, in fairness to everyone, counsel should be given the opportunity to argue whether or not this case affects the outcome of the present case. Therefore, a hearing for the purpose of receiving argument only, limited to the above-referenced Court of Appeals decision and its impact on the subject matter, has been scheduled for Thursday, December 13, 2007 at 9:00 a.m.

Please note that any brief filed in this matter will be accepted prior to or at the time of the scheduled argument on December 13th.

Very truly yours,

Kathleen C. Bianco
Administrator

David and Dian Miller
A. L. Snyder /Surveyor
Jacqueline Quad
Harry and Jennifer Abramson
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM







County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 410-887-3180 FAX: 410-887-3182

Hearing Room – Room 48 Old Courthouse, 400 Washington Avenue

November 14, 2007

NOTICE OF ASSIGNMENT / Hearing for Argument Only

CASE #: 07-177-SPH

IN THE MATTER OF: DAVID AND DIAN MILLER - Legal Owners

/Petitioners 12807 Sagamore Forest Lane /Proposed Lot 6A 4th Election District; 2nd Councilmanic District

and

CASE #: 07-178-SPH

IN THE MATTER OF: DAVID AND DIAN MILLER – Legal Owners

/Petitioners 12807 Sagamore Forest Lane /Proposed Lot 6B 4th Election District; 2nd Councilmanic District

12/26/2006 - D.Z.C.'s decision in which requested zoning relief was GRANTED with conditions.

A hearing for the purpose of receiving argument only regarding the impact, if any, of *People's Counsel for* Baltimore County, et al. v. Dorothy Surina, et al., No. 111, Sept. Term 2006, on the subject matter has been scheduled at the request of the Board; and has been

ASSIGNED FOR:

THURSDAY, DECEMBER 13, 2007 at 9:00 a.m.

NOTICE:

This appeal is an evidentiary hearing; therefore, parties should consider the

advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco Administrator

c:

Appellant

: Office of People's Counsel

Counsel for Legal Owners /Petitioners

: Wayne G. Gracey, Esquire

Legal Owners /Petitioners

: David and Dian Miller

A. L. Snyder /Surveyor

Jacqueline Quad Harry and Jennifer Abramson

William J. Wiseman III /Zoning Commissioner Pat Keller, Planning Director

Timothy M. Kotroco, Director /PDM





County Board of Appeals of Baltimore County '

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 410-887-3180 FAX: 410-887-3182

December 27, 2007

NOTICE OF DELIBERATION

IN THE MATTER OF:

DAVID AND DIAN MILLER – Legal Owners /Petitioners Case No. 07-177-SPH and Case No. 07-178-SPH

Having received argument on the limited issue as requested by the Board on 12/13/07, public deliberation has been scheduled for the following date and time on that limited issue as argued:

DATE AND TIME

THURSDAY, JANUARY 24, 2008 at 9:30 a.m.

LOCATION

Hearing Room 48, Basement, Old Courthouse

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco Administrator

c:

Appellant

: Office of People's Counsel

Counsel for Legal Owners /Petitioners

Legal Owners /Petitioners

: Wayne G. Gracey, Esquire

: David and Dian Miller

A. L. Snyder/Surveyor

Jacqueline Quad Harry and Jennifer Abramson

William J. Wiseman III /Zoning Commissioner Pat Keller, Planning Director Timothy M. Kotroco, Director /PDM

FYI: 4-6-7

CASE #: 07-177-SPH

IN THE MATTER OF: DAVID AND DIAN MILLER – Legal Owners

/Petitioners 12807 Sagamore Forest Lane /Proposed Lot 6A

4th Election District; 2nd Councilmanic District

and

CASE #: 07-178-SPH

order of dismissal.

IN THE MATTER OF: DAVID AND DIAN MILLER – Legal Owners

/Petitioners 12807 Sagamore Forest Lane /Proposed Lot 6B 4th Election District; 2nd Councilmanic District

Page 2	
11/14/0	77 – Notice of Assignment /Hearing for Argument Only sent to parties this date; hearing scheduled for Thursday, December 13, 2007 at 9:00 a.m. for the limited purpose of receiving argument as to the impact, if any, of the Lynch (Surina) decision issued by the Court of Appeals, as cited in People's Counsel's Post-Hearing Memorandum in the subject matter. A cover letter was also sent this date to Counsel advising of the limited nature of this hearing. FYI copy to 4-6-7.
12/13/0	77 – Board convened for argument only hearing as indicated above (Grier, Witt, Crizer). Public deliberation to be scheduled and notice sent.
12/27/0	7 - Notice of Deliberation sent to parties; public deliberation scheduled for Thursday, January 24, 2008 at 9:30 a.m. FYI copy to 4-6-7.
1/24/08	B – Board convened for public deliberation on limited issue as argued 12/13/07. Reversed decision reached a first deliberation; granted Petitioner's requested special hearing relief; written opinion /order to be issued. (4)
2/28/08	Letter of withdrawal of petitions filed by David Miller and Dian Miller this date; Order of Dismissal of Petitions with prejudice to be issued by the Board, in which any relief granted by the Deputy Zoning Commissioner in his decision of 12/26/06 shall be rendered null and void. Grier, Witt, and Crizer to sign

CASE #: 07-177-SPH

IN THE MATTER OF: DAVID AND DIAN MILLER - Legal Owners

/Petitioners 12807 Sagamore Forest Lane /Proposed Lot 6A 4th Election District; 2nd Councilmanic District

SPH -- Proposed Lot 6A - to approve creation of undersized non-density parcel of land in RC2 zone and to approve septic area location for Lots 6A to be located in RC 2 zone ilo required RC 5 (same zone as house)

and

CASE #: 07-178-SPH

IN THE MATTER OF: DAVID AND DIAN MILLER - Legal Owners

/Petitioners 12807 Sagamore Forest Lane /Proposed Lot 6B 4th Election District; 2nd Councilmanic District

SPH – Proposed Lot 6B – To approve creation of undersized non-density parcel of land in RC 5 zone and to approve well location for Lot 6B in an RC 5 zone ilo required RC 2 (same zone as house)

12/26/2006 -. D.Z.C.'s decision in which requested zoning relief was GRANTED with conditions.

5/14/2007 - Notice of Assignment sent to following; assigned for hearing on Thursday, June 14, 2007 at 10:30 a.m.:

Office of People's Counsel

David and Dian Miller

A. L. Snyder /Surveyor

Jacqueline Quad

Harry and Jennifer Abramson

William J. Wiseman III /Zoning Commissioner

Pat Keller, Planning Director

Timothy M. Kotroco, Director /PDM

- 6/14/07 Board convened for hearing (Grier, Witt, Crizer); Wayne G. Gracey, Esquire, entered his appearance on behalf of Mr. and Mrs. Miller; file noted. Memos to be filed on 7/11/07; deliberation to be assigned and notice sent.
- 6/25/07 Notice of Deliberation sent to parties; deliberation assigned for Tuesday, July 31, 2007 at 9:00 a.m. FYI copy to 4-6-7. (Confirmed availability of "6" for this date; 4 and 7 scheduled.)
- 7/11/07 People's Counsel for Baltimore County's Memorandum filed by Mr. Zimmerman; Memorandum filed by Wayne G. Gracey, Esquire, on behalf of David and Dian Miller. **MEMOS FILED IN 07-177-SPH.** -- Copies of above memos forwarded to 4-6-7 via USPS.
- 7/17/07 Notice of PP and Reassigned Deliberation sent to parties this date; postponed from July date due to conflict for Board member (7); and reassigned to Tuesday, September 11, 2007 at 9:00 a.m. FYI copy to 4-6-7.
- 7/26/07 Letter from Mr. and Mrs. Miller requesting consideration for earlier deliberation date; personal matters require an early resolution of this matter for reasons as stated in letter. Conferred with panel for this matter; Board will be available on 8/21/07 to deliberate at 9 a.m. Advised Ms. Miller via telephone that request would be granted and amended notice sent next week.
- 7/31/07 Second Notice of Reassignment sent to parties; case reassigned to earlier date for public deliberation and reassigned to Tuesday, August 21, 2007 at 9:00 a.m. FYI copy to 4-6-7 advising of change (Messrs Grier and Witt are sitting on 8/21/07; Mr. Crizer will come in on 8/21/07).
- 8/21/07 Board convened for public deliberation (Grier, Witt, Crizer); unanimous decision D -Petition for Special Hearing /Cases 07-177-SPH and 07-178-SPH /undersized lot; written decision to be issued; appellate period to run from date of written Order and not today's date. (4)



IN THE MATTER OF: DAVID AND DIAN MILLER 12807 SAGAMORE FOREST LANE

07-177-SPH

4TH E; 2ND C

07-178-SPH

DATE:

August 21, 2007

BOARD/PANEL

Wendell Grier, Chairman

Robert Witt

Edward W. Crizer, Jr.

RECORDED BY:

Linda B. Fliegel/Legal Secretary

PURPOSE:

To deliberate the creation of an undersized non-density parcel of land in an RC 5 Zone, containing 0.2446 acres (10,655 sq. ft.), a part of lot 6B, as shown on the proposed Minor Subdivision Plan of "The David Miller Property @ Sagamore Forest" and Section 1A005.b.(1).c (ZCPM) - to approve well location for lot 6B to be located in an RC 5 Zone in lieu of

the required RC 2 Zone (i.e. same zone as house).

PANEL MEMBERS DISCUSSED THE FOLLOWING:

- Is this matter correct coming before the Board?
- 2) When is a development plan final?
- 3) Other various points concerning this case.

STANDING

- The Board, through its discussions, agreed that this matter is proper coming before the Board.
- The house and lot were bought in 1995. (Lot -6A)
- Part of property is located in R.C. 5 and R.C. 2.
- While the property has two zones, the house is located in one zone.
- The Petitioner's want to subdivide their property to allow the building of another house. (Lot - 6B)
- Unfortunately, because of a stream that is running thru the property, there is no place to put a well unless a small portion of the original property can be rezoned.
- People's Counsel is concerned that if this would be allowed, it could open doors for over development.
- One Board member suggested that the Miller's should have had the small section they wanted to transfer reclassified.
- There was a feeling that allowing Petitioners request would be going against the spirit and intent of the development and that others in the development would want to do the same thing.
- In addition, the density laws have changed since the initial property was bought and developed upon.

DECISION BY BOARD MEMBERS: The Board felt that granting Petitioners request would be against the spirit and intent of the development and that it would be going against the new laws regarding density in that area.

FINAL DECISION: After a thorough review of the facts, testimony, and law in the matter, the Board unanimously decided to DENY the granting of the undersized non-density parcel of land.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place that date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted

Linda B. Fliegel County Board of Appeals

PLEASE PRINT CLEARLY

CASE NAME CASE NUMBER DATE

PETITIONER'S SIGN-IN SHEET

culs surveyor peds dianmiller @yahoo. com E-MAIL 21074 - extoud, 4021/86 REISTERSTOWN MD 21136 ğ STATE, ZIP AMPSTER D 12807 SAGAMORE FORESILA 2 SACHAROLE FOREST ADDRESS STEPHEN SONYISER DAVID MILLER NAME

RE: PETITION FOR SPECIAL HEARING

12807 Sagamore Forest Lane (Proposed Lot 6A);

E/S Sagamore Forest Lane, 670' S c/line

Worthington Avenue

4th Election & 2nd Councilmanic Districts

Legal Owner(s): David & Dian Miller

Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

07-177-SPH

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of October, 2006, a copy of the foregoing Entry of Appearance was mailed to, A.L. Synder, Surveyor, Inc, 1911 Hanover Pike, Hampstead, MD 21074, Representative for Petitioner(s).

RECEIVED

CC: 3 2008

Per X Marin

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

26. IN ACCORDANCE MITH BILL NO. 18.90 SECTION 26.276 PREDGING, FILLING OF CONSTRUCTION IN ANY METLAND IS PROMIBITED.

127, THERE ARE NO ACCESSORY STRUCTURES ON SITE.

2B. THE DRIVENIAR ENTRANCE FOR LOT 6B SHALL CONFORM WITH
BAUTIMORIA COUNTY STANDARD DETAIL PLOTE "R-15" FOR
TYRRAL PRIVENIAL ENTRANCE FIZON FLOWS WITH OUT CHEB
AND GUTTER R

29. A VARIANCE WAS GRANTED BYTHE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT FROM THE REQUIATION'S FORTHE PROTECTION AND RECEDING WATER GUALITY, STIZEAMS, WETLANDS AND FLOODPLAIMS TO LOCATE A WELL WITHIN THE FOREST BUFFER EASEMENT ON LAT 60, CONDITIONS WERE PLACED UPON THIS VARIANCE, INCLUDING RESTORATION OF THE AREA DISTURBED BY THE WELL RUG, TO OFFERT WATER QUALITY PLA

INIPACTS

HAS EVER BEEL UTILIZIED, RECORDED, OR, REPRESEUTED A DEUSITY OR, AREA TO SUPPORT ANY OFF SITE DWELLING. 17. THE PROPOSED HOUSE SHAW BEA SINGLE FAMILY RESIDENCE

18. THE EXISTING HOUSE IS A SUGLES FAMILY PLESIPELICES

19. ALL SITE ZUNOFF MUST BE CONVEYED TO A SUITABLE OUTFALL, WITHOUT THE RECEIVING WATER BODY.

THE RECEIVING WATER BODY.

WATERCOURSE, WATLAND, STORM DEAIN, OR ADJACENT PROPERTY.

20. TO TAL AREA OF PROPOSED LAND DISTURBANCES.

21. DUL IMPERVIOUS AREFAS SHOULD BE LIMITED TO 30 PERCEDIT OF CLEARED AREFA, AND CONVEXED AS SHEET, FLOW THEALGH VEGETATIED AREFAS WITHOUT CONCENTRATION OF CAUSING EROSION.

22. HOUSE DOWNSPOUTS ARE TO BE DISCHARRED ONTO PERVIOUS AREAS OR

23. ADDITIONAL SUBDIVISION OF THUSE PARCELS ANO/OR LOTS MAY REQUIRE S.W. M. CONTROLS FOR THIS SITE AND THE ADDITIONAL SUBDIVISION.

24. THE FANHANDLE SHALL BE PAVED WITHIN ONE YEAR OF THE 1950ANCE OF THE PERMIT AND PRIOR TO THE 1950ANCE OF THE OCCUPANCY PERMIT AND PRIOR TO THE 1950ANCE OF THE OCCUPANCY PERMIT OF THE LAST LOT TO BE SERVED, WHICHEVER COMES FIRST.

25. The areas between the sight Line and the curb line Must be Cleared, Graded and kept pribe of any obstructions.

PLAT TOACCOMPANY PETITION FOR SPECIAL HEARII ORES! DAVID MILLE SAGAMORE

FOURTH ELECTION DISTRICT THIRD COUNCUMANIC DISTRICT

DATE: SEPTEMBER 21, ZOOG

CENSUSTRACT: 4044.02

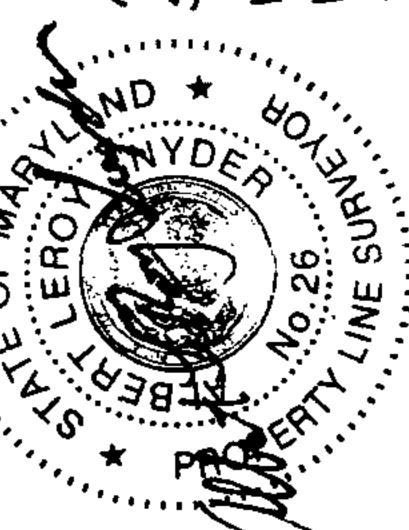
PREVIOUSLY RECORDED: E.H.K.JR 39 FOUG 122

OWNERS: DAVID M. MILLER

DIAN MILLER

12807 SAGAMORE FOREST LANG
6LYNDON, MARKLAND 21136

410.833.5656

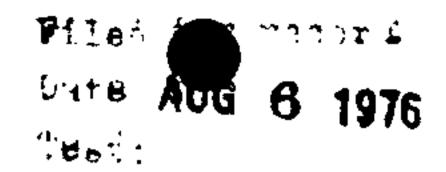


A.L. SHYDER

SURVEYOR, INC

1911 HANOVER PIKE HAMPSTEAD, MD. 21074 410-239-7744 COUNTY FILE* CAUGOS

JOB # 01062



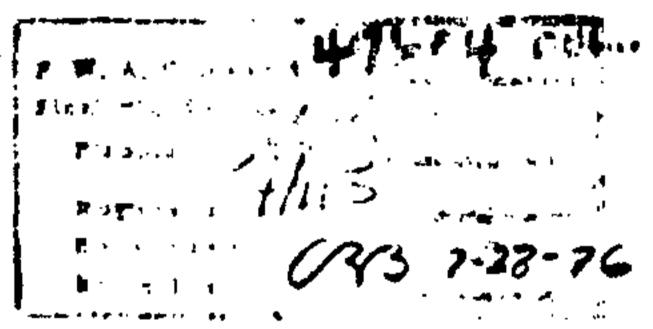
Grand Solling Clerk

55:

TREETS AND OR POADS SHOWN
FOU AND MENTION THEREOF IN
DIS ARE FOR RURPOSES OF DEPTONI ONLY AND THE SAME ARE
NITENDED' TO BE DEDICATED TO
IC USE: THE FEE SIMPLE TITLE
IE BEDS THEREOF IS EXPRESSESERVED IN THE GRANTORS OF
DEED TO WHICH THIS RAT IS
CHED THEIR HEIRS AND ASSIGNS.

PARTHANDLE LOTS, REFUSE SCTION, SNOW REMOVAL, AND POAD TENANCE ARE PROVIDED TO THE TION OF THE PANHANDLE AND STREET RIGHT-OF-WAY LINE ONLY, NOT ONTO THE PANHANOLE LOT EWAY.

OPPOUNTES AUD BEARINGS IN ON THIS PLAT ARE DEFENDED C.M.O. TRAVERSE STATIONS. X-9720 : X-9729



SE ASSOCIATES.

SISOUT TOP

1589

M9A CSu 2136-6644

39-122

Q 2 2 3

