

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(Falls Road)		
3 rd Election District	*	OFFICE OF
2 nd Council District		
Robert Johnson, West Rockland	*	ADMINISTRATIVE HEARINGS
Association, Inc.		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2019-0359-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Robert Johnson, West Rockland Association, Inc., legal owner (“Petitioner”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”): (1) to request non-density transfer of a 1.2 acre parcel of land from Robert H. Johnson (Parcel 1060) to West Rockland Associates, Inc. (Parcel 1217); and (2) to request a non-density transfer of a 0.3 acre parcel of land from West Rockland Associates, Inc. (Parcel 1218) to Robert H. Johnson (Parcel 903). A site plan was marked and admitted as Petitioner’s Exhibit 3.

Petitioner Robert Johnson, and Petitioner West Rockland Association (WRA), represented by its President and sole stockholder appeared in support of the Petition, as did engineer Bruce Doak, who had prepared the Plan and who was accepted as an expert. Neil Lanzi, Esq. represented Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Environmental Protection and Sustainability (“DEPS”) and the Department of Planning (“DOP”). None of the reviewing agencies opposed the request.

Mr. Garrett was the first witness. He gave an interesting and eloquent history of the property, explaining that it has been in their family for nine generations. In answer to a question from Mr. Lanzi, Mr. Garrett testified that the entire property in question is zoned DR-1. However, Mr. Garrett explained that both affected parcels are covered by a perpetual Maryland Environmental Trust easement and that, as such, there are no density rights associated with the properties, and that no development is permitted on the property. He further noted that MET has deemed the property agricultural, and that this would be a “raw ground to raw ground” transfer. Mr. Garrett then explained that the transfers would accomplish several positive things: First, the conveyance from Robert Johnson to WRA would connect parcel 1218 of WRA property with parcel 1217 of WRA property. This in turn would allow MET to more readily access the property for its periodic inspections. Second, the connection of these two parcels and the addition of the 1.2 acres of property will enhance the pasture land for the horses housed in the historic Rockland Barn. Finally, the 0.3 acre transfer of woodland from WRA to Mr. Johnson will provide a further forest buffer to the rear of Mr. Johnson’s 1920 residence and will have the added benefit of bringing the setbacks into conformance with current standards as they are presently non-conforming. Mr. Johnson intends to maintain the forest in its present state. Mr. Lanzi then offered Exhibit 1, a letter from MET in support of the Petition, and Exhibit 2, a written statement which tracks Mr. Garrett’s testimony.

Mr. Doak then further articulated the above stated reasons for the requested relief and offered Exhibit 3, a highlighted copy of the Plan, and Exhibit 4, an aerial view of the properties in question and the neighboring properties. Mr. Doak confirmed that the MET easement prohibited

any development of the property other than agricultural structures. Mr. Doak testified that if the relief was granted the Petitioners would file a copy of this Order with the recorded deeds for explanatory purposes. Mr. Doak further testified that he has been the engineer for many non-density transfers and that this Petition is perhaps the most efficacious he has worked on, and that it is entirely in keeping with the spirit and intent of the BCZR and will have only positive public impacts. These thoughts were echoed by Mr. Lanzi in his summation of the requested relief. The undersigned wholeheartedly agrees.

THEREFORE, IT IS ORDERED this 4th day of **October, 2019** by this Administrative Law Judge, that the Petition for Special Hearing as follows: (1) to request non-density transfer of a 1.2 acre parcel of land from Robert H. Johnson (Parcel 1060) to West Rockland Associates, Inc. (Parcel 1217); and (2) to request a non-density transfer of a 0.3 acre parcel of land from West Rockland Associates, Inc. (Parcel 1218) to Robert H. Johnson (Parcel 903), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. A copy of this Order shall be recorded with the subject deeds.
2. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.

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

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

PMM:sln