

JOSEPH C. AND LISA ANN PENKUSKY * BEFORE THE
PETITIONERS AND OWNERS * PLANNING BOARD OF
PLANNING BOARD CASE NO. 433 * HOWARD COUNTY, MARYLAND

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DECISION AND ORDER

The Planning Board of Howard County, Maryland, held a public hearing January 18, 2018, in accordance with Section 107.0.F. of the Howard County Zoning Regulations. It considered the petition of Joseph C. Penkusky and Lisa Ann Penkusky, to approve a Preliminary Equivalent Sketch Plan, SP-17-006, for six single-family detached lots and five open space lots. The 5.87 acre Penkusky Property subdivision, located at 4707 Beechwood Road, is identified as Parcel 119, Tax Map 31, First Election District of Howard County, Maryland. The property is zoned R-ED (Residential: Environmental Development).

The Notice of Hearing was published and the property was posted in accordance with the Planning Board’s requirements, as evidenced by certificates of publication and posting, all of which were made a part of the record. Pursuant to the Planning Board’s Rules of Procedure, the reports and official documents pertaining to the petition, including the Department of Planning and Zoning (DPZ) Technical Staff Report, the Howard County Code, the General Plan of Howard County, the Howard County Subdivision and Land Development Regulations, the Howard County Zoning Map and Regulations, the Howard County Landscape and Forest Conservation Manuals, the DPW Design Manual, the Adequate Public Facilities Ordinance, and comments from the Subdivision Review Committee agencies were made part of the record in this case.

Mr. Sang Oh, Esq., Talkin and Oh, represented the Petitioner and waived opening statements. Opposition did not have legal representation.

After careful evaluation of all testimony and information presented, the Planning Board made the following Findings of Facts and Conclusions of Law:

FINDINGS OF FACT

- 1. Derrick Jones, staff planner, presented the Technical Staff Report, which recommended approving Preliminary Equivalent Sketch Plan, SP-17-006, subject to comments from reviewing agencies and any conditions by the Planning Board.

The property is zoned R-ED, which permits two dwelling units per net acre. It is 5.87 gross acres with a net area of 3.76 acres, allowing seven lots. Six single-family lots and five open space lots are proposed. The residential lots, which must be at least 6,000 square feet, range from 7,693 square feet to 15,216 square feet. The exception is Lot 1, which is 33,877 square feet and contains the Petitioner’s existing home.

All residential lots front Beechwood Road (a local scenic road) through a 16-foot wide use-in-common driveway, to be named Poplar Ridge Lane.

All development requirements have been met, including the review criteria in Section 107.0.F.6 of the Zoning Regulations. Mr. Jones noted that the Division of Zoning Administration found the existing garage and shed (to remain on Lot 1) to be legally nonconforming structures. He further stated that the site contains regulated environmental features, including 4.50 acres of forest, 2.11 acres of steep slopes, a small area of wetlands (0.02 acres), and two streams. Steep slopes peak at a ridgeline at the center of the site. Most of the regulated environmental features will be in open space lots, which include 56% of the site. An Alternative Compliance Petition has been filed to disturb a portion of the stream/wetland buffers and some steep slopes to accommodate the use-in-common driveway and the residential lots.

2. Mr. Dennis Ream of Adcock & Associates, LLC, testified on behalf of the Petitioner and his curriculum vitae was introduced as Applicant's Exhibit 1.
3. Mr. Ream addressed each of the criteria of Section 107.0.F.6. of the Zoning Regulations as follows:

- a. The proposed lay-out of lots and open spaces effectively protects environmental and historic resources.

Mr. Ream testified about existing site conditions and the subdivision plan. He stated that about 580' of Beechwood Road frontage will remain undisturbed, except for widening the existing driveway. Approximately 56% of the site will be open space, the site is heavily wooded, and it has significant slopes. However, disturbance to environmental features will be minimal.

- b. Buildings, parking areas, roads, storm water management facilities and other site features are located to take advantage of existing topography and to limit the extent of clearing and grading.

Mr. Ream described storm water management and that it will take advantage of existing topography. Further, the existing driveway will be widened on only one side to meet County driveway standards and grading will be minimized to avoid disturbing existing vegetation. He noted that the widened driveway will encroach into stream and wetland buffers.

- c. Setbacks, landscaped buffers, or other methods are proposed to buffer the development from existing neighborhoods or roads, especially from designated scenic roads or historic districts.

Mr. Ream testified that a vegetated buffer will remain on the perimeter of the site. These are mainly wooded areas in open space lots that are recorded with forest conservation easements. Except for a minor driveway widening, the frontage along at Beechwood Road will remain undisturbed and maintain a 35-foot scenic road buffer. He said that as the plan progresses through subdivision and site plan review there will be opportunities to enhance perimeter landscaping.

OPPOSITION TESTIMONY

Ms. Monica Gilliam was sworn in and said she was concerned about run-off and asked if there has been a study concerning the impacts of run-off on the environment. She stated that an agency like the

Department of Natural Resources should evaluate the watershed and any impacts caused by development. Ms. Gilliam had no witnesses or further testimony.

REBUTTAL

Mr. Oh did not have a rebuttal.

Ms. Gilliam had a rebuttal.

PETITIONER'S SUMMATION

Mr. Oh did not have a summation, as he referred to the technical staff report.

OPPOSITION'S SUMMATION

Ms. Gilliam did not have a summation.

WORK SESSION

The Planning Board went into work session and determined that the plan meets the criteria established under Section 107.0.F. Vice-Chairperson Erica Roberts made a motion to approve PB Case 433 and Mr. Kevin McAilley seconded.

CONCLUSIONS OF LAW

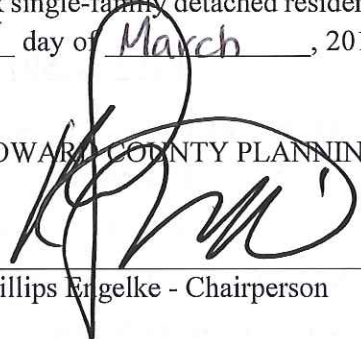
1. Preliminary Equivalent Sketch Plan, SP-17-006, is for six single-family detached residential lots and five open space lots on 5.87 acres zoned R-ED (Residential Environmental Development).
2. The project must comply with the Howard County Subdivision and Land Development Regulations; including the Forest Conservation Regulations, the Landscape Manual, the Zoning Regulations and Maps, the Design Manual, and the Adequate Public Facilities Ordinance.
3. The subject property was properly posted and the public hearing was advertised in accordance with legal requirements.
4. The limit of disturbance is 2.1 acres.
5. The site contains an existing house, a detached garage and shed; it does not contain a cemetery or grave sites.
6. The site abuts Beechwood Road, which is a scenic road, and a 35-foot wide buffer will be preserved along the frontage.
7. The proposed subdivision will effectively protect, preserve and minimize disturbance of the environmental resources. The proposed subdivision plan protects environmental resources by the following means:

- a. There are regulated environmental features on the site; however, they be minimally disturbed and development will be concentrated in the most developable areas, along the ridge top.
 - b. The lots are close to the minimum 6,000 square foot size, thereby limiting disturbance.
 - c. About 56% of the site is in open space and it buffers surrounding homes.
8. The site plan takes advantage of the unique topography by minimizing the limits of clearing associated with a shared use-in-common driveway, home sites, stormwater management facilities, and utilities.
 9. All setbacks and Landscape and Forest Conservation Manual requirements have been met.
 10. The development will be served by public water and sewer.

Preliminary equivalent sketch plan, SP-17-006, satisfies all the criteria for approval of a Preliminary Equivalent Sketch Plan, provided in Section 107.0.F.6 of the Howard County Zoning Regulations for the reasons stated in the Department of Planning and Zoning Technical Staff Report.

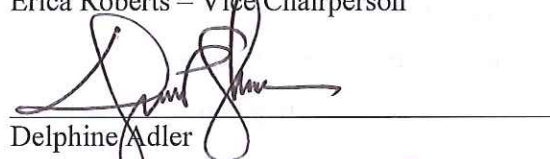
For the foregoing reasons, the petition of Joseph C. and Lisa Ann Penkusky to approve Preliminary Equivalent Sketch Plan, SP-17-006, to subdivide six single-family detached residential lots and five open space lots on 5.87 acres, zoned R-ED, on this 1st day of March, 2018, is APPROVED by the Planning Board of Howard County, Maryland.

HOWARD COUNTY PLANNING BOARD



Phillips Engelke - Chairperson


Erica Roberts - Vice Chairperson


Delphine Adler


Ed Coleman

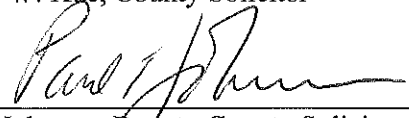

Kevin McAuley

ATTEST:



Valdis Lazdins, Executive Secretary

REVIEWED FOR LEGAL SUFFICIENCY BY:
HOWARD COUNTY OFFICE OF LAW
Gary W. Kuc, County Solicitor



Paul Johnson, Deputy County Solicitor

LIST OF APPLICANT'S EXHIBITS:
Exhibit No. 1 – *Curriculum Vitae*

LIST OF PROTESTANT'S EXHIBITS:
NONE