

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
SW of Windsor Mill Road, 1,000' SE of	*	OFFICE OF
c/line of Featherbed Lane		
(6727 B Windsor Mill Road)	*	ADMINISTRATIVE HEARINGS
2 nd Election District		
4 th Council District	*	FOR
Rodger Glenn Price	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2012-0256-SPHA

* * * * *

MOTION FOR RECONSIDERATION
ORDER AND OPINION

By Order dated July 27, 2012, the undersigned denied the Petitioner’s special hearing petition, which sought to establish his landscaping business as a legal non-conforming use (NCU) in a DR 5.5 zone. The Petitioner has filed a motion seeking reconsideration of that Order, but in his motion the Petitioner would appear to concede that he cannot satisfy the requisite legal standard for a NCU. *See* Motion, paragraph 5. Thus, this case is somewhat of an anomaly, given that the zoning relief originally sought is apparently no longer at issue.

Instead, the motion in essence seems to argue that the purported “landscape business” operated by Petitioner is not in fact conducted from his home. Rather, the Petitioner notes that he simply stores the following on site: two pickup trucks, two trailers and six lawn mowers. The Petitioner then argues that parking such vehicles and equipment is permitted in a DR zone, citing Baltimore County Zoning Regulations (B.C.Z.R.) § 431. Upon closer scrutiny, I disagree in certain respects with Petitioner’s analysis.

As an initial matter, Petitioner is certainly entitled to store/park on his property one commercial vehicle which is less than 10,000 lbs. gross vehicle weight (GVW). B.C.Z.R.

§ 431.1.B. Provided the Petitioner observes the requirements set forth in § 431.1.B.1-3, this would be permitted. But the second commercial vehicle, which is larger than 10,000 lbs., cannot be parked on the premises overnight. The regulations permit such a vehicle to be parked on DR zoned property for a period not “exceeding the time essential to the immediate use of the vehicle.” B.C.Z.R. § 431.1.A. This would allow, for example, a roofing contractor to park his vehicles on his customer’s lot during the period of time in which the contractor completed the roof repairs. Petitioner’s commercial vehicle exceeding 10,000 GVW does not satisfy this requirement, since no “immediate use” is being made of the vehicle. Rather, it is simply being stored overnight and will be engaged in commercial activity the following day, which is exactly what the regulation prohibits.

The next issue concerns the trailers. Under the B.C.Z.R., trailers such as those owned by the Petitioner (known as utility trailers, which in Petitioner’s case are used to transport the lawn mowers, gas cans, etc.) would be considered “commercial vehicles,” as that term is defined in B.C.Z.R. § 101.1. As such, they cannot be stored or parked on a residential lot, per B.C.Z.R. § 431.1, which permits the lot owner to store only one commercial vehicle on site. In the end, the Petitioner owns and stores at his home four commercial vehicles: two trucks and two trailers. To comply with the B.C.Z.R., the Petitioner is entitled to keep only one of these vehicles at his home.

The final issue is the six lawnmowers, and it does not appear as if the B.C.Z.R. regulates the number of lawnmowers a homeowner may keep on a residential lot. Of course, the six lawnmowers are indicia of the commercial operation run by Petitioner, which is not permitted in the DR zone. Even so, I believe Petitioner can keep the lawnmowers, provided they are stored in a fully enclosed structure, as proposed in the motion.

The Petitioner must understand that the zoning regulations are enforced by the Department of Permits, Approvals, and Inspections (PAI), not this office. As such, it is possible the code inspectors in that department may disagree with the analysis herein, and seek to cite the Petitioner, as occurred at the outset of this case. That agency operates strictly by complaints, which means that if the Petitioner observes the restrictions set forth herein, and stores the lawnmowers inside a garage/shed and has no other activity or equipment visible to neighbors, the County may not receive complaints from neighbors. I stress this point simply to let Petitioner know that this is a tenuous situation, and he must conduct his affairs in such a manner that does not suggest or indicate the operation of a business at his dwelling.

THEREFORE, IT IS ORDERED this 11th day of September, 2012 by the Administrative Law Judge for Baltimore County, that the Motion for Reconsideration filed by the Petitioner, be and is hereby DENIED.

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

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:dlw