

IN RE: PETITIONS FOR SPECIAL HEARING * AND SPECIAL EXCEPTION (13801 Jarrettsville Pike) * Richard W. Opfer, Jr. * <i>Petitioner</i> *	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY Case No. 2013-0026-SPHX
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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing¹ and Special Exception filed by Edward J. Gilliss, Esquire, on behalf of the legal owner, Richard W. Opfer, Jr. The Petition for Special Exception was filed pursuant to § 1A08.3.B.1.d of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a residential art salon in an RC-6 zone.

Appearing at the public hearing in support of the requests were Richard W. Opfer, Jr., Charles E. Ludwig, Jonathan Herbst, and David E. Locke, with KCI Technologies, Inc., the consulting firm that prepared the site plan. Edward J. Gilliss, Esquire, with Royston, Mueller, McLean & Reid, LLP, appeared as counsel and represented the Petitioner. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. The file does not contain any letters of opposition.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse ZAC comments received from any of the County reviewing agencies.

¹ The petition for special hearing was withdrawn by counsel. Mr. Gilliss explained that both he and County reviewers mistakenly believed that a prior zoning (violation) case impacted the subject property. It was later determined that was not the case, and the special hearing relief is therefore unnecessary.

The subject property is located near the intersection of Jarrettsville Pike and Merryman's Mill Road. The structures on site are over 100 years old, and were originally used as a forge and gathering place for community events. After purchasing the property, the Petitioner expended considerable sums to restore the structures, and photographs were introduced showing the attractive building and grounds.

The Petitioner proposes to operate a residential art salon, which is a use permitted by special exception in the RC 6 zone. B.C.Z.R. § 1A07.3.B.1.d.² The Petitioner explained that the studio would not be open on a daily basis, and in any event would operate only between the hours of 10:00 AM to 10:00 PM. See Exhibit 1, note 30.

Special Exception Standards

Special exception uses are presumptively valid and consistent with the comprehensive zoning plan, People's Counsel v. Loyola College, 406 Md. 54, 77 n. 23 (2008), and no evidence was offered here to rebut the presumption. Petitioner's expert, Mr. Locke of KCI Technologies, testified via proffer that the project would satisfy Section 502.1 of the B.C.Z.R., and I concur. The use proposed is "low impact," and will have little to no impact upon surrounding properties. In fact, before his purchase the property was in a moribund state, but the Petitioner has restored a property which is a vital link in this community's history.

Pursuant to the advertisement, posting of the property, and public hearing, and after considering the testimony and evidence offered, I find that Petitioner's Special Exception request should be granted.

THEREFORE, IT IS ORDERED this 9th day of October, 2012, by this Administrative Law Judge, that Petitioner's request for Special Hearing filed pursuant to § 500.7 of the

² As noted in the DOP's ZAC comment dated September 6, 2012, the petition in the case erroneously referenced B.C.Z.R. § 1A08.3.B.1.d, which pertains to the RC 7 zone.

Baltimore County Zoning Regulations (“B.C.Z.R.”), to amend prior decision in Case No. 66-4966 to permit the requested relief, be and is hereby WITHDRAWN, and

IT IS FURTHER ORDERED that Petitioner’s Special Exception request from § 1A07.3.B.1.d of the B.C.Z.R., to permit a residential art salon in an RC-6 zone, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for his appropriate permits 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, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Unless extended by subsequent Order, the special exception approval granted herein must be utilized within two (2) years from the date hereof.

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