

IN RE: PETITIONS FOR SPECIAL HEARING *		BEFORE THE
AND SPECIAL EXCEPTION		
(4510 North Point Road)	*	OFFICE OF
15 th Election District		
7 th Council District	*	ADMINISTRATIVE HEARINGS
Howard M. & Joyce White		
<i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
	*	Case No. 2014-0151-SPHX

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Special Exception filed by Jason T. Vettori, Esquire with Smith, Gildea and Schmidt, LLC on behalf of Howard and Joyce White, legal owners. The Petition for Special Hearing was filed pursuant to §409.12.B of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve a modified parking plan. In addition, a Petition for Special Exception was filed to permit a contractor’s equipment storage yard pursuant to B.C.Z.R. §236.2.

Appearing at the public hearing in support of the requests was Robert Hufnal and Brian Collins, a landscape architect whose firm prepared the site plan. Jason T. Vettori, Esquire with Smith, Gildea and Schmidt, LLC represented the Petitioners. The file reveals that the Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants or interested citizens in attendance, and the file does not contain any letters of protest or opposition.

Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The only substantive comment was from the Department of Planning (DOP)

dated February 5, 2014, which indicated that agency did not oppose the requests and believed that the special exception use would not be detrimental to the surrounding community.

Testimony and evidence offered at the hearing revealed that the subject property is 1.25 acres and zoned BR-AS. A new tenant (Phillips Services Corp.) has leased the property, and was informed by the County that it needed a special exception to store large commercial vehicles and related equipment on site. Phillips is a Baltimore Gas and Electric (BGE) contractor, and is responsible for cleaning up damaged electrical and utility equipment, and it uses this site to store its trucks, other vehicles and materials. The County considers this to be a contractor's equipment storage yard, a use permitted by special exception in the BR zone. This case involves long existing site conditions, and no construction or development is proposed at the site.

Special Hearing

The petition for special hearing concerns the off street parking at the property. The Petitioners provide a sufficient number of spaces for the use, the lot is paved (durable and dustless) as required by the regulations, and "wheel stops" are provided for each of the spaces. But the parking stalls are not striped, nor are drive aisles provided or shown on the plan, and the Petitioners seek special hearing relief to waive those requirements. Photos show that the parking lot is well maintained (Exhibit 3) and more than sufficient to serve this commercial site, which does not conduct retail operations or have "customers" that frequent the location. In these circumstances, dispensing with the striping and drive aisle requirements will in no way impair the proper functioning of the parking lot. The Petitioners have not had parking shortages or other difficulties throughout the years with the lot in its current configuration. The Petitioners would experience an undue hardship if they were obliged to comply with B.C.Z.R. §409 in these circumstances, and the petition for special hearing will be granted.

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. The site is surrounded by commercial and manufacturing uses (including a gentlemen's club) and Mr. Collins opined that Petitioners satisfied the B.C.Z.R. §502.1 requirements. I concur, and the Petition for special exception will be granted.

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

THEREFORE, IT IS ORDERED this 11th day of March 2014, by this Administrative Law Judge, that the Petition for Special Hearing to approve a modified parking plan, as shown on the site plan marked as Petitioners' Exhibit 1, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Special Exception to permit a contractor's equipment storage yard pursuant to B.C.Z.R. §236.2, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for appropriate permits and/or licenses and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

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/sln