

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(6619 Baltimore National Pike)</b>		
1 <sup>st</sup> Election District	*	OFFICE OF
1 <sup>st</sup> Councilmanic District		
Lyncare, LLC, <i>Legal Owner</i>	*	ADMINISTRATIVE HEARINGS
Sweetwater Pool & Spa, <i>Lessee</i>		
Petitioners	*	FOR BALTIMORE COUNTY
	*	<b>Case No. 2014-0155-SPH</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed by Leslie M. Pittler, Esq., on behalf of Lyncare, LLC, legal owner and Sweetwater Pool & Spa, Lessee (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), seeking a Waiver to the Department of Public Works Design Manual Plate DF-1 to approve a setback from the 100 year Flood Plain limit of less than 20 ft. for a commercial building and a retaining wall.

Appearing at the public hearing in support of the requests was Carole Divelbliss Blanchard, Craig Martin, Robert Hanna, David Leary and Richard E. Matz with Colbert Matz and Rosenfelt, Inc., the consultant who prepared the site plan. Leslie M. Pittler, Esq. appeared and represented the Petitioners. There were no Protestants in attendance at the hearing. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Zoning Advisory Committee (ZAC) comments were received from State Highway Administration (SHA) dated January 24, 2014, Department of Planning (DOP) dated January 31, 2014 and the Department of Public Works (DPW) dated February 28, 2014. The SHA noted Petitioners would need to obtain an entrance permit from that agency, while the DOP requested Petitioners submit for its approval building elevations and a landscape plan. DPW indicated it

had reviewed plans prepared by Petitioners' engineer, and stated it "takes no exception to the approval of the waiver."

The subject property is 1.18± acres in size and is zoned BR and DR 5.5. The Petitioners have for many years operated a pool and spa repair business on the premises. The current building is operationally deficient, and Petitioners propose to construct a new 6,588 sq. ft. one-story commercial building. As shown on the site plan (Petitioners' Exhibit 1), a small portion of the building and retaining wall (highlighted in blue) would intrude upon the 20 ft. floodplain setback requirement found in DPW regulations (Petitioners' Exhibit 4).

Petitioners' engineer Richard Matz (who was accepted as an expert) explained the site plan, and opined that the relief would in no way be injurious to the health, safety and welfare of the surrounding community. The DPW also reviewed the waiver request and noted that the plan reveals there will be "no impacts to upstream or downstream properties." The Petitioners have also submitted, and the Department of Environmental Protection and Sustainability (DEPS) has approved a preliminary forest conservation and forest buffer protection plan prepared by Human & Rohde, Inc. Petitioners' Exhibit 5.

Pursuant to the advertisement, posting of the property, and the public hearing, I find that the Petition for Special Hearing should be granted, subject to the conditions noted below.

THEREFORE, IT IS ORDERED this 10<sup>th</sup> day of March 2014, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R) seeking a Waiver to the Department of Public Works Design Manual Plate DF-1 to approve a setback from the 100 year Flood Plain limit of less than 20 ft. for a commercial building and a retaining wall, be and is hereby GRANTED.

