

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(628 Rockaway Beach Road)		
15 th Election District	*	OFFICE OF
7 th Council District		
Rockaway Beach Improvement	*	ADMINISTRATIVE HEARINGS
Association, Inc.		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner		
	*	Case No. 2015-0169-X

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Special Exception filed for property located at 628 Rockaway Beach Road. The Petition was filed on behalf of the legal owner of the subject property, Rockaway Beach Improvement Association, Inc. (“Association”). The Special Exception petition seeks relief pursuant to §1B01.1.C.4 of the Baltimore County Zoning Regulations (B.C.Z.R) to permit a carport/pavilion as a civic, social, recreational and/or educational use in a D.R. zone. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner’s Exhibit No. 1.

Appearing at the hearing in support of the request was Kevin McDonough, Secretary of the Association. Chris Corey, Esquire represented the Petitioner. There were no Protestants in attendance. The Petition was advertised and posted as required by the B.C.Z.R. No substantive ZAC comments were received.

The subject property is approximately 2.86 acres and is zoned D.R. 3.5. The property is comprised of several lots (i.e., part of Lot 18 and Lots 21-33) as shown on the site plan. Exhibit 1. Lots 26 and 27 have for many years been used for community events and gatherings, and are the subject of the special exception request. A community building at the location was destroyed by

fire approximately 10 years ago. Petitioner proposes to construct a steel prefabricated structure (as shown in Exhibit 3) on the property, which will provide space for 6 or more picnic tables to accommodate community events.

Special Exception Law in Maryland

A use permitted by special exception (here, a community/recreational building and use) is presumed under the law to be in the public interest, and to defeat such a petition an opponent must establish that the inherent adverse effects associated with the use would be greater at the proposed location than at other similar zones throughout the County. People's Counsel for Baltimore County v. Loyola College, 406 Md. 54 (2008). No evidence was presented that would tend to rebut this presumption, and both the adjacent Eastern Yacht Club (Exhibit 6) and Essex Middle River Civic Council (Exhibit 7) submitted letters in support of the proposal. In the circumstances, I find Petitioner has satisfied the requirements of B.C.Z.R. § 502.1 and the petition will be granted.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 13th day of April, 2015, that the Petition for Special Exception pursuant to §1B01.1.C.4 of the Baltimore County Zoning Regulations (B.C.Z.R) to permit a carport/pavilion as a civic, social, recreational and/or educational use (on Lots 26 & 27 as shown on the site plan admitted as Exhibit 1) in a D.R. zone, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

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

JEB/sln

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County