

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(210 Bowleys Quarters Road)		
15 th Election District	*	OFFICE OF
6 th Council District		
	*	ADMINISTRATIVE HEARINGS
Mary Madeline & Kevin Lee Arnold		
<i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
Petitioners	*	Case No. 2016-0138-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Mary & Kevin Arnold, legal owners. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve an amendment to the Site Plan for Case No. 1999-0311-X, to permit the construction of a replacement building (service garage) and any other revisions deemed to be necessary as a result of the Hearing.

Owner Kevin Arnold and David Billingsley appeared in support of the petition. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants or interested citizens in attendance. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR).

The subject property is 10,750 square feet and zoned BL. The property is improved with a small single-family dwelling, in which Mr. and Mrs. Arnold reside. To the rear of the dwelling is a garage building used for boat repair. Petitioners were granted in 1999 a special exception for a service garage (Case No. 1999-0311-X, Exhibit 7). The site plan in that case (Exhibit 6) indicated the service garage was approximately 800 sq. ft. Petitioners would like to raze that older structure

and construct in its place a new building for the service garage operation (approximately 1,600 sq. ft.). The Zoning Office instructed Petitioners to seek special hearing relief for this amendment, although the underlying special exception (for a service garage) remains unchanged.

The site plan in the earlier case (Exhibit 6) does not delineate any particular special exception area, and the new garage would be positioned in the same portion of the lot. The property is surrounded on all sides by commercial uses (including a Walmart) and no evidence was presented to suggest that the proposed amendment would jeopardize the health, safety and welfare of the community. As such, the petition for special hearing will be granted.

Petitioners noted that Condition No. 3 of the 1999 Order stated the special exception relief was “personal to the individuals identified in the instant Petition.” Exhibit 7, p. 5. While such conditions are often included in orders granting special exception relief, they are not (strictly speaking) appropriate from a legal perspective. As a general matter, zoning “runs with the land,” and a zoning board may not attach a “condition to a special exception which essentially serves a non-zoning purpose ... [such as] limiting the exception to a particular person.” Kulak v. Bristol Township, 563 A.2d 978, 980 (Pa. 1989). As such, that condition will be stricken.

THEREFORE, IT IS ORDERED this **17th** day of **February, 2016** by this Administrative Law Judge, that the Petition for Special Hearing pursuant to B.C.Z.R. § 500.7 to approve an amendment to the Site Plan for Case No. 1999-0311-X, to permit the construction of a replacement building (service garage) and to strike Condition No. 3 from the Order in Case No. 99-311-X, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.

2. Petitioners must provide landscaping and/or lighting for the site, as determined in the sole discretion of the Baltimore County Landscape Architect.

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw