

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(3805 Edgewater Pl.)</b>		
15 <sup>th</sup> Election District	*	OFFICE OF
7 <sup>th</sup> Council District		
Chalmer & Mona Smith,	*	ADMINISTRATIVE HEARINGS
<i>Legal Owners</i>		
Dustin Boyd,	*	FOR BALTIMORE COUNTY
<i>Contract Purchaser</i>		
Petitioners	*	<b>Case No. 2017-0070-SPH</b>

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**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 Chalmer & Mona Smith, legal owners and Dustin Boyd, contract purchaser (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R) to allow a residential dwelling to be constructed on property zoned ML.

Professional engineer Bill Bafitis and Chalmer Smith appeared in support of the petition. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP), the Department of Environmental Protection and Sustainability (DEPS) and the Bureau of Development Plans Review (DPR). None of the reviewing agencies opposed the request.

The subject property is 0.49 acres in size and zoned ML. The site is unimproved, and as noted by the DOP, the majority of the nearby properties are used for residential dwellings. A site plan was marked and admitted as Petitioners’ Ex. 1, and it contains details regarding the proposed 28’ x 52’ two-story dwelling. The plan indicates that all height and area regulations from the adjoining D.R.-5.5 zone will be observed, as required by B.C.Z.R. §302.1.

Mr. Bafitis submitted photographs of the many dwellings in the neighborhood as well as some of the commercial uses in the vicinity. Petitioners' Ex. 3. Petitioners also submitted an Order (Petitioners' Ex. 4) from a prior zoning case (No. 2013-0278-SPH) wherein a neighboring property owner was granted special hearing relief to construct a dwelling in the ML zone. Having reviewed the plan, photos and other exhibits I believe the proposed dwelling would be compatible with the community and the petition will be granted.

THEREFORE, IT IS ORDERED this 4<sup>th</sup> day of November, **2016** by this Administrative Law Judge, that the Petition for Special Hearing to allow a residential dwelling to be constructed on property zoned ML, be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon 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 prior to obtaining permits contact the Department of Public Works to determine the flood protection elevation for the property.
3. Petitioners must prior to obtaining permits comply with the Critical Area regulations.

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

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:slh