

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(13220 Long Green Pike)		
2 nd Election District	*	OFFICE OF
3 rd Councilman District		
Green Valley Farms, LLC	*	ADMINISTRATIVE HEARINGS
Petitioner	*	FOR BALTIMORE COUNTY
	*	Case No. 2014-0103-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 13220 Long Green Pike. The Petition was filed by John B. Gontrum, Esquire, on behalf of the legal owner of the subject property, Green Valley Farms, LLC. The Petition seeks relief pursuant to 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to use the herein described property for an animal boarding place, riding stable and a farm market.¹ 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 1.

Appearing at the hearing was Ryan & Amber Frost, Mary Kelly, Judy Gregory and licensed surveyor Jonathan S. Dallas with J.S. Dallas, Inc., who prepared the site plan. John B. Gontrum, Esquire with Whiteford, Taylor & Preston, LLP attended and represented the Petitioner. The Petition was advertised and posted as required by the B.C.Z.R. There were no Protestants or interested citizens in attendance, and the file does not contain any letters of opposition. Substantive Zoning Advisory Committee (ZAC) comments were submitted by the Department of Planning (DOP) and the Department of Environmental Protection and Sustainability (DEPS).

¹ At the hearing, the Petitioner indicated that it no longer sought approval of a farm market. Accordingly, the Petition was amended and only the boarding place and riding stable are at issue.

The subject property is 31.39 Ac. +/- and is zoned RC 2. The property is in the Long Green Valley, and is improved with a single family dwelling, barn and related outbuildings. The surrounding uses are largely agricultural, and the DEPS describes it as a “vital agricultural area.” Petitioner purchased the property in 2011, and has been boarding horses at the site since that time. After a complaint was filed with Code Enforcement, the Petitioner was instructed to file a petition for special exception to “legitimize” the present activities on the site.

Special Exception Law in Maryland

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. Schultz v. Pritts, 291 Md. 1 (1981). The Schultz standard was revisited in People’s Counsel v. Loyola College, 406 Md. 54 (2008), where the court emphasized that a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Here there was no evidence presented that would suggest the special exception uses would be injurious to the community. In fact, the DOP noted in its comment that the riding stable and animal boarding uses are “within the spirit and intent of the RC 2 regulations.” In addition, Petitioner’s neighbors (Mary Kelly and Mr. and Mrs. McKenzie) attended the hearing and expressed enthusiastic support for the request. In these circumstances, I believe the petition for special exception should be granted.

Mr. Lippincott, of DEPS, requested that the number of horses be limited pursuant to a soil, water & nutrient management plan, and such a condition will be imposed below. The Groundwater Management section of DEPS indicated Petitioner may need to install a new septic system and satisfy other requirements to “accommodate this increased usage.” The reviewer also

suggested that Petitioner needed to apply for a change of occupancy or building permit. Having reviewed the comment in its entirety, I believe the reviewer was focused upon the proposed farm market operation, which is no longer part of this case. Petitioner confirmed there will be no improvements or construction at the site. In these circumstances, I do not believe Petitioner must obtain a building permit or approval for change of occupancy, and I will not impose such conditions in the Order below.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 4th day of June, 2014, that the Petition for Special Exception under §502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to use the herein described property for an animal boarding place and riding stable, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioner may keep on the premises a maximum of twenty-one (21) horses.
3. Petitioner must obtain approval from State and/or County authorities of soil conservation, water quality and nutrient management plans.

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