

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(109 Old Padonia Road)</b>		
8 <sup>th</sup> Election District	*	OFFICE OF
3 <sup>rd</sup> Council District		
	*	ADMINISTRATIVE HEARINGS
Dental Properties, LLC		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner	*	<b>Case No. 2017-0010-SPH</b>

\* \* \* \* \*

**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 Dental Properties, LLC, legal owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: (1) to approve a modified parking plan to determine the required number of parking spaces and their configuration, for an existing building and a proposed addition; and (2) to approve the location and existing setbacks of a non-conforming building. Owner Marshall W. Fesche appeared in support of the petition. Christopher Corey, Esq. represented the Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR). Neither agency objected to the requests and conditions will be included below to address the concerns identified in these comments.

The subject property is 0.22 acres and zoned BM-CCC. The property is improved with a building (formerly a single-family dwelling) which has since 1993 been used for Dr. Fesche’s dental practice. Petitioner proposes to enlarge the structure to accommodate the growing practice.

The petition for special hearing concerns the parking and setbacks at the property. Dealing first with the setbacks, these are existing site conditions and have been for over 75 years (i.e., the structure was built in 1940). As such, these of course can remain and the building qualifies under B.C.Z.R. §104 as a lawful nonconforming structure.

The relief required under the parking regulations essentially concerns the number of spaces provided. With the construction of the addition, 17 spaces are required, while 13 spaces are provided. Petitioner's Exhibit 1, n.5. Counsel noted a few of the spaces may be slightly smaller than required, but otherwise the lot is paved and striped in accordance with the regulations. The Petitioner indicated there has never been a shortage of parking and I do not believe granting the petition would have a detrimental impact upon surrounding properties. There is no additional space at the site on which additional parking could be located, and thus I believe Petitioner would experience an undue hardship if the request was denied. I also find Petitioner satisfies the other requirements set forth in B.C.Z.R. §§ 409.8 & 409.12.

The only remaining issue concerns whether or not Petitioner should be required to install a sidewalk along the property frontage at Old Padonia Road and/or Broad Avenue. Both the DOP and DPR indicated Petitioner should be responsible for this improvement, which according to Petitioner could cost several thousand dollars. The DPR stated the sidewalk will be required as a condition of building permit approval; as such, rather than addressing this as a zoning matter I will allow that agency to make such a determination at that juncture.

THEREFORE, IT IS ORDERED this 19<sup>th</sup> day of September, **2016** by this Administrative Law Judge, that the Petition for Special Hearing pursuant to B.C.Z.R. § 500.7 as follows: (1) to approve a modified parking plan to determine the required number of parking spaces and their configuration, for an existing building and a proposed addition (all as shown on the site

plan which accompanied the Petition and was marked as Petitioner’s Ex. 1); and (2) to approve the location and existing setbacks of a non-conforming building, 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.
2. Petitioner must provide landscaping (including a dumpster enclosure) for the site as determined in the sole discretion of the Baltimore County landscape architect.
3. The building addition must feature “consistent architectural design and finish on all facades which are visible from public rights-of-way,” as specified in the Hunt Valley/Timonium Master Plan.

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:sln