

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(14232 Jarrettsville Pike)		
10 th Election District	*	OFFICE OF
3 rd Council District		
Dogwood Management LLC	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Casey Brooks	*	FOR BALTIMORE COUNTY
<i>Contract Purchaser</i>		
Petitioners	*	Case No. 2017-0266-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 Dogwood Management LLC, legal owner and Casey Brooks, contract purchaser (“Petitioners”). 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: (a) to permit 29 parking spaces in lieu of the 53 required spaces; (b) to permit landscaping for parking consistent with the landscaping relief that was previously approved for this property in Zoning Case No. 92-254-A, as is more particularly shown on the Plan to accompany this petition; and (c) to permit loading areas in areas also designated for parking; and (2) to permit landscaping consistent with the landscaping relief that was previously approved for this property in Zoning Case No. 92-254-A and to confirm that the proposed building addition is appropriate to the existing building and neighborhood.

Tony Petronelli, Adam Meissner and architect Tim Sanders appeared in support of the petition. Lawrence E. Schmidt, Esq. represented the Petitioners. 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) and the Bureau of Development

Plans Review (DPR).

The subject property is 38,235 square feet (0.88 acres) in size and zoned BL-CR, which is a rural, commercial district. The site is improved with an attractive commercial building with a stone façade. The building is 2,924 sq. ft. in size and is located in Jacksonville. A Royal Farm store was operated for many years at the site, and most recently the building was occupied by an equestrian tack shop. Petitioners propose to operate a restaurant, which would include construction of a 350 sq. ft. addition for storage, etc. The addition would be constructed at the rear of the building and would therefore not be visible from Jarrettsville Pike. Given the number of parking spaces required for a restaurant is greater than for a convenience store or retail enterprise, Petitioners require zoning relief.

The contract purchaser currently operates a restaurant in the Parkville area, but would like to relocate the business to the subject property. While it will operate as a normal restaurant in many respects (*e.g.*, 12 tables will be provided with seating for 30-40 patrons) a substantial portion of the business consists of off-site catering for parties, weddings, etc. As such, Petitioners believe the number of spaces proposed will be more than adequate for a restaurant which seats 40 customers, and the DOP concurred in its ZAC comment.

A second aspect of special hearing relief concerns the proposed loading area for the facility. Petitioners explained they will not have a marked and dedicated loading zone for the restaurant, as required by B.C.Z.R. § 409. Petitioners noted that deliveries would be made at times when the restaurant is closed or at other off-peak times. Tim Sanders, the architect who prepared the site plan, noted the restaurant will have an exterior access door leading to the refrigerated food storage area, and thus I believe deliveries can be safely and efficiently completed in the manner proposed.

The final issue concerns landscaping and lighting for the site. Petitioners indicated they have removed from the plan the two (2) parallel parking spaces abutting the landscape island in the front of the property, as requested by the DOP. This will preserve an attractive green space with existing vegetation that adjoins Jarrettsville Pike. Excepting the small storage addition to be constructed, all that is taking place here is a change in use/occupancy. As such I do not believe Petitioners should be required to provide a landscape plan for the site, although the plan approved in 1992 should be revisited to ensure the site satisfies current standards. In addition, a new parking area will be created at the rear of the site, and landscaping and/or lighting will likely be required in connection therewith.

THEREFORE, IT IS ORDERED this 8th day of **June, 2017** by this Administrative Law Judge, that the Petition for Special Hearing as follows: (1) to approve a modified parking plan with 27 parking spaces in lieu of the 53 required spaces; (2) to determine that the proposed addition (350 sq. ft.) is appropriate and compatible with the neighborhood pursuant to B.C.C. §32-4-402; and (3) to permit loading areas in areas also designated for parking, 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 provide landscaping and lighting (primarily in the area where the new parking spaces will be located) as determined in the sole discretion of the Baltimore County landscape architect.
3. A minimum of 7% of the parking lot shall be pervious surface as required by B.C.Z.R. §259.3.

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:sln