

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(226 Meadowvale Road)	*	OFFICE OF
9 th Election District		
3 rd Council District	*	ADMINISTRATIVE HEARINGS
Haxia Chen Diggs & Susan Zhou	*	FOR BALTIMORE COUNTY
<i>Legal Owners</i>		
Petitioners	*	Case No. 2017-0320-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of Haxia Chen Diggs and Susan Zhou, legal owners (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve a Class A Group Child Care Center for up to 12 children. In addition, a Petition for Variance seeks to permit a proposed 5 ft. high storage style fence with rear and side yard setbacks of 0 ft. in lieu of the required 20 ft. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Haxia Chen Diggs and surveyor Bruce E. Doak appeared in support of the requests. Several neighbors opposed the request. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency opined a child care center with 12 children “may have an adverse impact on the neighborhood in terms of traffic.”

SPECIAL HEARING

A group child care center (Class A) is permitted by right in the DR 3.5 zone, upon issuance of a use permit. B.C.Z.R. §424. The petition for special hearing in essence seeks to have the

Administrative Law Judge authorize a use permit allowing Petitioners to operate at the subject property a child care center with a maximum of 12 children.

The zoning regulations contain “bulk standards” which must be satisfied before a group child care center is permitted in a D.R. zone. B.C.Z.R. §424.7. Among those requirements is a one acre “minimum lot size” and enhanced front (25 ft.) side (50 ft.) and rear (50 ft.) yard setbacks. The site plan and tax records indicate the subject property is 9,660 sq. ft. in area, which is less than one acre. Though the yard setbacks are not provided on the site plan, it would appear the side and rear yards are deficient. Given these deficiencies, the petition for special hearing must be denied.

THEREFORE, IT IS ORDERED this 2nd day of **August, 2017**, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R) to approve a Class A Group Child Care Center for up to 12 children, be and is hereby DENIED.

IT IS FURTHER ORDERED that the petition for variance to permit a proposed 5 ft. high storage style fence with rear and side yard setbacks of 0 ft. in lieu of the required 20 ft., be and is hereby DISMISSED without prejudice as Moot.

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

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln