

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
(1402, 1406, 1408 York Road)	*	OFFICE OF
9 <sup>th</sup> Election District		
3 <sup>rd</sup> Council District	*	ADMINISTRATIVE HEARINGS
1402 York Road, LLC	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	<b>Case No. 2018-0074-SPHA</b>

\* \* \* \* \*

**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 1402 York Road, LLC, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: (1) to determine that the Petitioner's proposed use qualifies as a "limited-acreage wholesale flower farm" as defined in Section 101.1 of the B.C.Z.R.; and/or, in the alternative; (2) to permit a "farm" as defined in Section 101.1 of the B.C.Z.R. to be located on 0.964 acres of land in lieu of the required 3 acres.

A Petition for Variance seeks: (1) to permit an 8 ft. in height, black vinyl-coated chain-link fence as detailed on the "Plat to Accompany for Special Hearing & Zoning Variance"; and (2) an amendment, to the extent necessary, to the previously approved Special Exception in Case No. 87-180-SPHXA dated November 6, 1986 to permit roadway and fence as detailed on the "Plat to Accompany Petitions for Special Hearing & Zoning Variance.” A site plan was marked and accepted into evidence as Petitioner’s Exhibit 2.

Karyn Harris, professional surveyor Geoffrey Schultz and landscape architect Stuart Ortel appeared in support of the requests. Michael Wyatt, Esq. represented the Petitioner. Several citizens attended the hearing to obtain additional information regarding the requests.

The petition was advertised and posted as required by the Baltimore County Zoning Regulations (B.C.Z.R.). Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP), the Bureau of Development Plans Review (DPR) and the Department of Environmental Protection and Sustainability (DEPS). None of the reviewing agencies opposed the requests.

### SPECIAL HEARING

This case involves three separate parcels of land along York Road in Lutherville. The properties are split-zoned RO and DR 5.5. 1402 York Rd. is improved with a commercial building which serves as the headquarters for Sage Dining Services. 1406 York Rd. is improved with a single-family dwelling which is currently used as an insurance brokerage. 1408 York Rd. is unimproved, and it is this lot which is the subject of the hearing.

Karyn Harris testified she has been employed with Sage for 17+ years. She explained Sage provides food service management for private schools and colleges nationwide. There are approximately 60 employees at the headquarters at 1402 York Road. Ms. Harris testified Sage employs executive chefs who prepare meals in house for consumption on-site by Sage employees. Many times the meal preparations are videotaped and provided to company clients as “webinars.”

Petitioner proposes to install on the unimproved parcel numerous raised planting beds to grow vegetables, fruits and flowers. Ms. Harris testified the chefs on staff would use the fruits and vegetables to prepare meals, all of which would be consumed on-site by Sage employees. As noted above, the chefs may videotape their cooking demonstrations so that clients (i.e., private schools and colleges) can learn how to prepare the dishes. A greenhouse, shed and barn would be constructed on the 1408 York Rd. parcel, and would be used in conjunction with the farm. There would be no third-party sales of food or produce.

The petition for special hearing seeks a determination the use is either a "limited acreage wholesale flower farm" or a "farm." Under the Regulations, those terms are mutually exclusive; i.e., both uses could not exist at the same time. In my opinion the operation described constitutes a "farm," even though it does not fit precisely within the definition provided in B.C.Z.R. §101. This site is just under one acre, while the Regulations require three acres for a farm. In other respects I believe the proposed operation qualifies, since "agricultural uses" (found in the definition of "farm" in B.C.Z.R.§101.1) will take place on site. Perhaps this is best described as a farmette, which I believe is nonetheless a farm. That use is permitted by right in the RO & DR 5.5 zones.

THEREFORE, IT IS ORDERED this 18<sup>th</sup> day of **December, 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 permit a "farm" as defined in Section 101.1 of the B.C.Z.R. (for "associated agricultural uses" only and not commercial agriculture) to be located on 0.964 acres of land in lieu of the required three (3) acres; and (2) to permit an amendment of the special exception granted in Case No. 97-180-SPHXA, to reflect the relief granted herein, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for waiver to permit an 8 ft. in height, black vinyl-coated chain-link fence as detailed on the "Plat to Accompany Petitions for Special Hearing & Zoning Variance," 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 submit for approval by Baltimore County a landscape plan for the site.

3. No structure on the unimproved parcel to be used in connection with the farm may exceed 25 ft. in height.
4. No retail sales or raising of livestock and/or poultry shall be permitted.
5. The subject property shall not be used as a catering facility.
6. Petitioner must comply with the DEPS ZAC comment, a copy of which is attached and incorporated herein.

Any appeal of this decision must be made 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