

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(1628 & 1630 W. Joppa Road)		
8 th Election District	*	OFFICE OF
2 nd Council District		
1630 West Joppa Road, LLC	*	ADMINISTRATIVE HEARINGS
Two Farms, Inc.		
<i>Legal Owners</i>		FOR BALTIMORE COUNTY
Petitioners	*	Case No. 2018-0185-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 1630 West Joppa Road, LLC, and Two Farms, Inc., 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 waiver to permit the redevelopment of the portion of the site in a riverine floodplain and to allow grading, paving, utilities and other site work and related parking and road improvements within the floodplain.

Professional engineer Michael Coughlin and Jeff Bainbridge appeared in support of the petition. David H. Karceski, Esq. and A. Neill Thupari, Esq. represented Two Farms, Inc. Several neighbors attended the hearing to express concern regarding flooding conditions at the site. 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), the Bureau of Development Plans Review (DPR), the Department of Environmental Protection and Sustainability (DEPS) and the Department of Public Works (DPW). A site plan was marked and admitted as Petitioners’ Exhibit 1.

The subject property is approximately 28,409 square feet (0.65 Ac. +/-) in size and split-zoned CB & DR 3.5. The site is comprised of two separate parcels: 1628 W. Joppa Rd., improved

with a single-family dwelling constructed in 1877, and 1630 W. Joppa Rd., on which a Royal Farms store is located. Both the store and a large portion of the dwelling are located in the floodplain. Petitioners propose to raze the dwelling and create additional parking for the convenience store.

Petitioners presented one witness: Michael Coughlin, a professional engineer accepted as an expert. Mr. Coughlin described the project and site plan, and testified the store itself would remain unchanged. Even with the additional parking spaces Mr. Coughlin testified impervious surface coverage at the site (which contributes to flooding conditions) would be decreased slightly since Petitioners will be removing certain existing impervious areas that will more than offset the amount of paving for the additional parking. Mr. Coughlin opined that the improvements would not increase the flood elevation for the site and that Petitioners satisfied all requirements for the waiver as set forth in the Baltimore County Code and Building Code. He also opined granting the waiver would be consistent with sound floodplain management.

In a document dated October 11, 2017, the Maryland Department of the Environment issued an Authorization to Proceed for this project, which allows the Petitioners to complete the proposed improvements within the 100-year floodplain of Roland Run. Pets. Ex. 7. The DPW also supported the waiver request, and noted in its ZAC comment that “[r]emoving the existing dwelling from the flood plain improves the overall safety of the site and is therefore the strongest justification for the waiver.” Based upon Mr. Coughlin’s testimony, and the approvals granted by the agencies charged with oversight and management of floodplains and water resources, I believe Petitioners have satisfied their burden of proof under BCC §§32-8-301 *et. seq.*, 32-4-404, 32-4-414, 32-4-107 and the Baltimore County Building Code, Part 125.

One neighbor was skeptical that the amount of impervious surface on the site would be reduced upon completion of the project. But Mr. Coughlin is a licensed professional engineer, and he prepared an exhibit (Pets. Ex. 6) that demonstrated such a reduction would occur. I am persuaded by and relied upon this testimony and the exhibit in granting the waiver.

Another neighbor expressed concern with parking conditions at the site, and I agree for the most part with Mr. Coughlin that the project will improve ingress/egress from the store. But having reviewed the plan I believe the three parking spaces on the south side of the store facing W. Joppa Road are problematic. As discussed at the hearing, vehicles in those spaces need to back out to exit the store and this often interferes with patrons wanting to enter the site, causing congestion and delays on Joppa Road. Mr. Coughlin testified the site requires only eight (8) parking spaces while twenty-seven (27) are proposed. As such, I believe these three spaces should be eliminated, which will require the relocation of the necessary spaces for disabled motorists. While I am generally loathe to interfere with a plan and project designed by reputable architects and engineers, I believe the change is justified in this instance.

THEREFORE, IT IS ORDERED this 13th day of **March, 2018** by this Administrative Law Judge, that the Petition for Special Hearing to approve a waiver to permit the redevelopment of the portion of the site in a riverine floodplain and to allow grading, paving, utilities and other site work and related parking and road improvements within the floodplain, 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 submit for approval by Baltimore County landscape and lighting plans for the site.
3. Petitioners must comply with the DEPS ZAC comment, a copy of which is attached hereto.
4. No temporary signage or promotional displays shall be permitted on the subject property.
5. Petitioners shall within 30 days of the date hereof submit to the OAH a redlined site plan showing the removal of the three parking spaces on the south side of the store and the relocation of the disabled motorist parking spaces.

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