IN RE: **PETITION FOR SPECIAL HEARING** * BEFORE THE

(1900 Monkton Road)

10th Election District * OFFICE OF

3rd Council District

Otters Hollow Properties, LLC * ADMINISTRATIVE HEARINGS

Legal Owner

* FOR BALTIMORE COUNTY

Petitioner

* Case No. 2019-0218-SPH

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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 Otters Hollow Properties, LLC, legal owner ("Petitioner"). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("BCZR") to permit fourteen (14) commercial parking spaces to be located in an RC-7 residential zone, and to confirm the continued use of a commercial structure and uses dating back to the latter half of the 1800s on the subject property with non-conforming area, setbacks, parking and landscaping. A site plan was marked and admitted as Petitioner's Exhibit 1.

Angelo Otterbein and surveyor Bruce Doak appeared in support of the petition. Michael T. Wyatt, Esq. represented Petitioner. Several citizens attended the hearing to obtain additional information regarding the requests. The Petition was advertised and posted as required by the BCZR. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning ("DOP"). That agency did not oppose the request.

The subject property is 0.952 acres in size and split-zoned RC-7 and BL-CR. The property is improved with a 3 story brick building known as the Monkton Hotel, which is a Baltimore County landmark. The building has apartments on the upper levels and various commercial uses

(i.e., café, yoga studio) on the ground level. Petitioner proposes to provide an on-site parking area with 14 spaces for use by tenants, guests and/or patrons. The proposed parking lot would be located entirely within the RC-7 portion of the site, which necessitated the filing of the zoning petition.

Mr. Doak, a licensed surveyor accepted as an expert, testified via proffer and explained the plan and the existing improvements on site. He noted the parking area would be covered with stone/gravel (not paved) so as not to increase the amount of impervious surface near the Gunpowder River. The DOP stated in its ZAC comment that it would support the use of "pervious material" for the parking lot. Mr. Doak reviewed each of the factors set forth at BCZR §409.8 (concerning commercial parking in a residential zone) and opined Petitioner satisfied all requirements in that regulation.

He also discussed the history of the site (as did a neighbor, Thomas Harris, who has lived adjacent to the property for over 75 years) and testified the structure and uses described long predated the adoption of the BCZR. In these circumstances it is clear the structure and commercial uses described are properly characterized as lawfully non-conforming pursuant to BCZR Section 104 and the case law interpreting that provision.

THEREFORE, IT IS ORDERED this <u>1st</u> day of **April**, **2019** by this Administrative Law Judge, that the Petition for Special Hearing to permit commercial parking with a maximum of fourteen (14) spaces to be located in an RC-7 residential zone, to confirm the lawful nonconforming status of a commercial structure and uses dating back to the latter half of the 1800s on the subject property with non-conforming area, setbacks, parking and landscaping, and to permit the proposed parking area to be covered with pervious material in lieu of the required durable and dustless surface with striping, 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. Prior to issuance of permits Petitioner must secure all necessary approvals from the Baltimore County Landmarks Preservation Commission.
- 3. All dumpsters on-site must be screened in accordance with the Baltimore County Landscape Manual.
- 4. The areas adjacent to the access drive and the proposed parking must be screened with fencing and/or vegetative material, as determined in the discretion of the Baltimore County landscape architect after consultation with the owner(s) of 1826 & 1828 Monkton Road.

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