

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(5828 Ebenezer Road)		
15 th Election District	*	OFFICE OF
6 th Council District		
Richardson Holdings, LLC,	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
	*	FOR BALTIMORE COUNTY
Petitioner		
	*	Case No. 2019-0411-X

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of a Petition for Special Exception filed on behalf of Richardson Holdings, LLC, legal owner (“Petitioner”). The special exception petition was filed pursuant to Section 1A01.2.C.4 of the Baltimore County Zoning Regulations (“BCZR”) to allow a commercial bakery in a RC-2 zone.

Leslie Richardson, the President of Richardson Holdings, and Patrick Richardson, from Richardson Engineering, LLC appeared in support of the petition. Alfred L. Brennan, Jr., Esq. represented the Petitioner. There were no protestants or interested citizens in attendance. No substantive Zoning Advisory Committee (“ZAC”) comments were received from any of the County reviewing agencies.

A site plan was marked and admitted as Exhibit 1. The subject property is approximately 29.70 acres in size and is split- zoned RC-2 and RC-50. Leslie Richardson testified that his family owns and operates a produce farm and Farm Market and Deli on the site. They have approximately 20 acres tilled at any given time and adjacent thereto are an additional 100 acres of farmland. He explained that they currently use the kitchen in the Deli to do baking at night because this is the only time it can be done without unduly interfering with the Deli operations. However, the nocturnal hours of operation have made it difficult to hire and retain employees in the baking

operation. As a result the Richardsons want to repurpose the only original building on the site and convert it to a bakery that can operate during daytime hours. The structure was formerly used for poultry production. The baking done in this building will be done solely in connection with the Richardson's existing Produce Market and Deli and it will not be used as a commercial bakery. Mr. Richardson explained that the refurbishing of this building will hopefully make it easier to hire and retain employees for the bakery side of their business. Finally, it will have the additional benefit of bringing this original farm building back into productive use and make it a more attractive structure.

Special Exception

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Mr. Brennan asked the engineer, Patrick Richardson, to go through all of the requirements of BCZR 502.1 and based on his testimony and that of Leslie Richardson I am satisfied that all such requirements are met in this case. Indeed, I find that this proposed special use will help enable this established and valued local farm and farm market to maintain its viability.

THEREFORE, IT IS ORDERED this 23rd day of **October, 2019**, by this Administrative Law Judge, that the Petition for Special Exception to allow a commercial bakery in a RC-2 zone, 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.

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

Signed
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:sln