

IN RE: PETITION FOR VARIANCE

N side of Ebenezer Road; 7.5 feet W of
the c/l of Meyers Lane
15th Election District
6th Councilmanic District
(5028 Ebenezer Road)

Richardson Holdings, LLC
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **CASE NO. 2010-0215-A**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by Leslie A. Richardson, Member, on behalf of the legal owner of the subject property, Richardson Holdings, LLC. Petitioner is requesting Variance relief from Section 229.6.A.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an additional building for a retail greenhouse use of 6,274 square feet in lieu of the required 5,000 square feet. The subject property and requested relief are more fully depicted on the site plan which was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the variance request were Leslie A. Richardson on behalf of Petitioner Richardson Holdings, LLC, and Adam D. Baker, Esquire attorney for Petitioner. Also appearing in support of the requested relief was Patrick C. Richardson with Richardson Engineering, LLC, the professional engineer who prepared the site plan. There were no Protestants or other interested persons in attendance.

Testimony and evidence offered proceeded by a way of a proffer from Mr. Baker and revealed that the subject property is irregular in shape and consists of approximately 2.25 acres, zoned C.B. (Community Business). The property is located at the northwest corner of Myers Lane and Ebenezer Road, opposite Vincent Farm Lane, in the Middle River area of Baltimore

County, and is part of a much larger farming property to the north and west that is zoned R.C.2 and R.C.50. Mr. Baker indicated that the farming of the property has been ongoing for many years. During the 2008 Comprehensive Zoning Map Process (C.Z.M.P.), the subject site was rezoned C.B. for an anticipated expansion of the farm in order to use this relatively small site as a farm market and greenhouse.

Further evidence indicated that the proposed farm market and greenhouse will operate as a compliment to the overall farming operation. The farm market and greenhouse are already under construction, since they are permitted in the C.B. Zone. Currently, the greenhouse is being built at 4,608 square feet; however, in order to realize the full benefit of the greenhouse vis-à-vis the farming operation, Petitioner is in need of an additional 1,536 square feet for a total of 6,274 square feet. Mr. Baker noted that the requested variance will have an almost immeasurable effect on the nearest adjacent property, which is almost 1,500 feet away to the north, and also pointed out that there will be no adverse impact to the larger tract owned by Petitioner.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

In the statement of legislative policy for the C.B. Zone set forth in Section 229.1.A.1 of the B.C.Z.R., it states as follows:

The primary purpose of the Community Business Zone (C.B.) is to provide for the daily shopping and service needs of nearby residents through small businesses which do not generate large amounts of traffic at any one time. The zone shall accommodate vehicular parking needs, but also be pedestrian oriented. Where appropriate, parking should be located to the side and to the rear. In design, the C.B. Zone should reflect elements of the architectural style of neighboring residential buildings, so that the commercial development becomes an integral, harmonious component of the neighborhood.

Section 229.6.A.1 of the B.C.Z.R. states that uses such as the proposed greenhouse in this case shall have a gross floor area not to exceed 5,000 square feet. Petitioners propose a gross floor area of 6,274 square feet.

Considering all of the testimony and evidence presented, I am persuaded to grant the requested variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. As shown on the aerial photograph that was marked and accepted into evidence as Petitioner's Exhibit 3, the subject property is located in a rural and resource conservation area just south of Bird River that is presently devoted to farming. In order to enhance the farming operation, Petitioner desires to open a farm store and greenhouse to better serve its local customers. The granting of the variance will allow Petitioner to follow through with its plan. I agree with Petitioner that the farm market and greenhouse will provide a suitable complement to the farming operation, and will be in keeping with the goals and purpose of the C.B. Zone. I also find that Petitioner would suffer practical difficulty and undue hardship if the variance were not granted.

Finally, I find that the variance can be granted in strict harmony with the spirit and intent of said Regulations, and in such a manner as to grant relief without injury to the public health, safety and general welfare. Thus, I find that the variance can be granted in such a manner as to meet the requirements of Section 307.1 of the B.C.Z.R., as interpreted in *Cromwell v. Ward*, 102 Md.App. 691 (1995).

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by Petitioner, I find that Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED this 20th day of April, 2010 by this Deputy Zoning Commissioner that Petitioner's Variance request from Section 229.6.A.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an additional building for a retail greenhouse use of 6,274 square feet in lieu of the required 5,000 square feet be and is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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

SIGNED
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz