

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
SE side of Worthington Road, 400' NE from *
Greenspring Avenue *
(12202 Worthington Road) *
4th Election District *
2nd Council District *
Wayne L. and Valerie M. Rogers *
Petitioners *
* * * * * * * *

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Special Hearing filed by the legal owners of the property, Wayne L. and Valerie M. Rogers. The Petitioners are requesting Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve the construction of an accessory structure (tennis court) and related appurtenances without a principal dwelling on the same lot. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the public hearing held for this case was Petitioner Valerie M. Rogers, and James D. Grammer with Polaris Land Consultants, who prepared the site plan for the Petitioner. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. There were no Protestants or other interested persons in attendance, and the file does not contain any letters of opposition or protest. In fact, the Petitioners submitted letters of support from the Worthington Valley Homeowner's Association, Inc. (Exhibit 8) and their immediate neighbor, Parker Rockefeller (Exhibit 7).

The ZAC comments were received and made a part of the file. A comment was received from the Department of Planning, dated January 9, 2012 indicating the following:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. This department does not oppose the petitioner's request provided the following conditions are met:

1. Submit a landscape plan to the Department of Planning and Avery Harden, Baltimore County Landscape Architect for review and approval. Retain the existing vegetation on the south side of the lot.
2. Provide a plan that shows or includes in the landscape plan details of fencing and lighting. Lighting should be directed away from any neighboring properties and should be equipped with cut-off devices.

Mr. Grammer indicated the lights would have timer/cut-off mechanisms, and the Petitioners have engaged a landscape architect (McHale Landscape and Design, Inc.) who has prepared a preliminary plan for the property (Exhibit 6). Thus, it appears both of the concerns raised by the Department of Planning will be addressed. There were no other ZAC comments received from any of the County reviewing agencies.

Testimony and evidence revealed that the subject property is 56,454 square feet (1.296 acres) and is split-zoned RC 5 and RC 4. The lot (shown as Lot 1 on the site plan, Exhibits 1 and 2) is vacant, and is located directly across the street from Petitioners' home on Lot 23 of the subdivision, known as 12205 Worthington Road. The Petitioners and their children are avid tennis players, and the lot on which their home is situated is too narrow to accommodate a tennis court, as shown on the Final Plat of Worthington Valley (Exhibit 3). In these circumstances, the construction of a tennis court and pavilion, as shown on Exhibit 2, will be a positive and attractive addition to the neighborhood, and will in no way negatively impact the community's health, safety and welfare.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED, this 30th day of January, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve the construction of an accessory structure (tennis court) and related appurtenances without a principal dwelling on the same lot, be and is hereby GRANTED.

The relief granted herein shall be conditioned upon the following:

1. The Petitioners may apply for their building permit and may be granted same upon receipt of this Order, however the Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the thirty (30) day appellate process from this Order has expired. If for whatever reason, this Order is reversed, the Petitioners will be required to return and be responsible for returning said property to its original condition.
2. The Petitioners must comply with the ZAC comment received from the Department of Planning, dated January 9, 2012.
3. The “tennis pavilion” shown on Exhibit 2 shall not be used as a dwelling or for overnight habitation of any sort.

JEB:dlw

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County