

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(5012 Mt. Carmel Road)		
Charles W. and Laurie E. Stafford	*	OFFICE OF
<i>Legal Owners</i>		
Amanda Manown, <i>Lessee</i>	*	ADMINISTRATIVE HEARINGS
Petitioners	*	FOR BALTIMORE COUNTY
	*	Case No. 2013-0038-X

* * * * *

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Special Exception filed for property located at 5012 Mt. Carmel Road. The Petition was filed by Adam D. Baker, Esquire, on behalf of the legal owners of the subject property, Charles W. and Laurie E. Stafford, and the tenant/lessee, Amanda Manown, (“Petitioners”). The Special Exception Petition seeks relief pursuant to § 1A01.2.C.21 of the Baltimore County Zoning Regulations (B.C.Z.R.), to use the property for riding stables. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners’ Exhibit 2.

Appearing at the hearing was Charles W. and Laurie E. Stafford, Amanda Manown, Julia and Roger Elliott, Wilmer Stradley, and James D. Grammer, professional land surveyor with Polaris Land Consultants, the consulting firm that prepared the site plan. Adam D. Baker, Esquire, with Whiteford, Taylor & Preston, LLP, attended and represented the Petitioners. Also appearing was Mr. and Mrs. Alan K. Grieger and Victor Long, both from the community. The file reveals that the Petition was properly advertised and the site was properly posted as required by the B.C.Z.R.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Environmental Protection and Sustainability (DEPS) on September 21, 2012, indicating that the Environmental Impact Review (EIR) and Agricultural Preservation Bureaus of that agency had certain concerns with the proposed commercial stable operations.

Testimony and evidence offered at the hearing revealed that the subject property is 421,922 square feet (9.686 acres) and is zoned RC 2. Mr. Stafford testified and stated he purchased the property about 10 years ago, and has since subdivided the overall tract into several child lots, one of which (Lot #5) had recently been sold. Mr. Stafford indicated the property was used as a horse stable prior to his purchase, and he wanted to create a commercial operation to alleviate the downturn and financial distress he has experienced with his pool business.

Ms. Manown next testified, and she indicated she would be the one operating the stable and riding business. She said her business caters to novice or inexperienced riders, and she hopes to grow the business to the point that she can accommodate 20 to 30 riders daily, usually in groups of 6 or less per ride. She now has 8 horses she owns at the site, and she said she has been involved with horses for over 20 years.

Petitioners' final witness was James Grammer, who was accepted as an expert in land use and zoning matters. Mr. Grammer explained the site plan (Exhibit 2) which he created, and described the features of the site. Mr. Grammer testified the property was originally subdivided in 1975, and he presented a subsequent refinement to that original plat, which in or about 2004 created the House Lot (Lot 4) on which the owners live, and Lot 3, which is approximately 16.8 acres +/- and is unimproved. Mr. Grammer opined the proposal satisfied each of the special exception standards set forth in B.C.Z.R. § 502.1.

Several neighbors attended the hearing, and expressed concern with (primarily) the Petitioners' use of the shared 30' driveway which adjoins Lots 3 and 4 at their western boundary lines. This driveway provides access to several homes as shown on Petitioners' Exhibit 4, and Ms. Alfin and Mr. Long indicated traffic has increased since the stable operation began, leading to unsafe conditions.

SPECIAL EXCEPTION

As noted above, Petitioners seek special exception relief from § 1A01.2.C.21 of the Baltimore County Zoning Regulations (B.C.Z.R.), to use the property for riding stables. 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 People's Counsel v. Loyola College, 406 Md. 54 (2008), where the court emphasized that 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.

Here, there was no evidence presented that the adverse effects from the operation of a riding stable would be any greater at this location than in any other locations in the zone where the use is permitted by special exception. Indeed, Mr. Grammer testified the project satisfied each of the requirements set forth in B.C.Z.R. § 502.1, and would in no way negatively impact the community's health, safety and welfare. The major concerns, as noted above, pertained to the shared driveway, which will not be part of the "special exception area" for which relief will be granted. As such, no horse riding or any activities associated with the stable may be conducted on that driveway.

Pursuant to the advertisement, posting of the property, and public hearing on this petition, and after considering the testimony and evidence offered, I find that Petitioners' Special Exception request should be granted, subject to the conditions which follow.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 26th day of October, 2012, that Petitioners request for Special Exception relief under § 1A01.2.C.21 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to use the property for riding stables, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The special exception relief granted herein must be utilized within a period of two (2) years from the date hereof, pursuant to B.C.Z.R. § 502.3.
3. The special exception area, on which the stable and horse riding activities may take place, shall include Lots 3 and 4 owned by Petitioners (as shown on Petitioners' Exhibit 4), but shall not include the shared driveway situated to the west of these lots. No horse riding or stable activities of any sort shall be permitted on this shared driveway.
4. Petitioners must comply with the comments set forth in the DEPS memorandum, dated September 21, 2012, which is attached hereto and incorporated herein.
5. Petitioners must secure all necessary state and county licenses and approvals.

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

JEB/dlw

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County