

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(1512 Woodlawn Drive)		
1 st Election District	*	OFFICE OF ADMINISTRATIVE
4 th Councilmanic District		
Bernadette Rhebooth and James Jones	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2013-0170-SPH

* * * * *

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Special Hearing filed by Emerson L. Dorsey, Jr., Esquire, on behalf of Morning Star Baptist Church of Baltimore County, property owner. The Petitioner is requesting Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to determine whether or not the Administrative Law Judge should approve a waiver of certain flood plain regulations, and to permit grading, filling, and the construction of a portion of a parking lot and a bridge and associated abutments in a riverine floodplain. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing held for this case was Richard E. Matz from Colbert, Matz and Rosenfelt, Inc., the firm that prepared the site plan. Douglas E. Moore and Allen C. Price also attended. Emerson L. Dorsey, Jr., Esquire appeared and represented 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.

The Zoning Advisory Committee (ZAC) comments were received and made a part of the file. The Department of Environmental Protection and Sustainability (DEPS) indicated that

Petitioner must comply with County, State and Federal floodplain regulations. The Department of Planning (DOP) requested the plan show the specific route for pedestrian access to the church, and Mr. Matz indicated that such detail was in fact labeled on the plan. Exhibit 1.

Testimony and evidence revealed that the subject property is 8.54 acres and is zoned BM and ML-IM. The Petitioner proposes to construct a large (approximately 30,000 sq. ft.) two story church on site, with adjoining parking lots. The site is presently improved with a pedestrian bridge that crosses Dead Run Branch (and it will remain), and the Petitioner also proposes to construct a vehicular bridge across the stream for access to the parking lot which will be used by parishioners.

Mr. Matz, a licensed engineer who was accepted as an expert, testified that a portion of the property is situated within the 100 year riverine floodplain. He has shown the existing limits of the floodplain on the plan (Exhibit 1), and has also indicated (with green highlighting) the “proposed” 100 year floodplain, that shows the areas of disturbance or impact to the floodplain by the proposed construction. As shown on the plan, the majority of the impact will occur in the areas planned for parking. Mr. Matz indicated that Petitioner would be amenable to erecting signs warning motorists that the area can be subject to flooding.

Mr. Kennedy, of Bureau of Development Plans Review (DPR), submitted a ZAC comment dated January 30, 2013, indicating the Director of the Department of Public Works (DPW) would provide a comment on the floodplain issue, but this office never received same. Mr. Matz indicated he has spoken with both Mr. Kennedy and Dave Thomas (also an engineer with the DPW), and that neither expressed opposition to the Petitioner’s request. Again, the scope of the present request concerns only the proposed construction of the vehicular bridge, abutments for same, and portions of the parking lot. The relief granted herein, as detailed below, does not

pertain to the construction of the proposed church building, which is the subject of a development approval request currently pending with the Department of Permits, Approvals and Inspections.

Pursuant to the advertisement, posting of the property, and public hearing, and after considering the testimony and evidence offered, I find that Petitioner Special Hearing request should be **GRANTED**.

THEREFORE, IT IS ORDERED, this 26th day of March, 2013 by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to determine whether or not the Administrative Law Judge should approve a waiver of the floodplain regulations, set forth in part 125 of the Baltimore County Building Code and Sections 32-4-414, 32-4-107(a)(2), & 32-8-301 of the BCC to permit grading, filling, and the construction of a portion of a parking lot and a bridge and associated abutments in a riverine floodplain, be and is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for appropriate permits 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 _____
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:sln