

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND VARIANCE	
(1100, 1104, 1110, 1112, 1116 Beech Drive)*	OFFICE OF
15 th Election District	
6 th Council District *	ADMINISTRATIVE HEARINGS
Norino Properties, LLC & John Zorzit	
<i>Legal Owner</i> *	FOR BALTIMORE COUNTY
Blue Heron Holdings, LLC *	Case No. 2020-0193-SPHA
<i>Lessee</i>	

Petitioners

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Variance filed on behalf of Norino Properties, LLC and John Zorzit, legal owners and Blue Heron Holdings, LLC, lessee (“Petitioners”). The Special Hearing was filed pursuant to § 409.8B of the Baltimore County Zoning Regulations (“BCZR”), to allow business parking (customers and employees) in a residential zone. In addition a Petition for Variance was filed pursuant to § 409.6.A.2 of the BCZR to allow 98 parking spaces in lieu of the required 139 for an existing restaurant business, and for such other and further relief as the nature of this cause may require.

Due to COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted.

Antonio Olmeda and Steve Recher appeared in support of the requests. Timothy Kotroco, Esquire represented the Petitioners. William N. Bafitis, P.E. also appeared. He prepared the site plan, which was admitted as Petitioner’s Exhibit 1. There were no protestants or interested persons in attendance. The property is located within the Chesapeake Bay Critical Area (“CBCA”) and is subject to Critical Area requirements. A Zoning Advisory Committee

("ZAC") comment was received from the Department of Planning ("DOP") and from the Department of Environmental Protection and Sustainability ("DEPS). The agencies did not oppose the requested relief, subject to proposed conditions.

The property is waterfront and located on the Wilson Point peninsula in Essex. It is approximately .69 acres and is split zoned BL and DR 3.5. The subject property is located within a Limited Development Area ("LDA) and a Modified Buffer Area ("MBA"). Mr. Kotroco explained that the existing "Carson's Creekside" restaurant and bar has been on the site for many years, and before that the same building housed "Whitey and Dot's" restaurant and bar, which dated to World War II. He further explained that the current owner and lessees wish to raze several dilapidated existing structures on the property and replace them with parking spaces in order to bring the parking capacity closer to that required by the zoning regulations. The special hearing relief is required because some of the proposed parking will be in the portions of the parcel zoned residential. The variance relief is needed because there is inadequate space to accommodate all the required parking spaces. Mr. Kotroco did note, however, that many of the restaurant's patrons arrive by boat, thereby easing parking demand. Further, he pointed out that there is ample parking at the County park across the street for the rare occasion when there would be overflow parking needed.

Based on the record evidence I find that the special hearing relief can be granted within the spirit and intent of the BCZR. Mr. Kotroco explained that the petitioners own the property on both sides of this parcel and therefore these additional parking spaces will not unduly burden them. Further, the razing of the old existing structures will enhance the overall appearance of the area when accompanied by the proposed landscaping improvements. Finally, the proposed

parking plan satisfies BCZR § 409.8.B.2 because the spaces adjoin the restaurant property, the lot will only be open during restaurant hours, and only passenger vehicles will be allowed.

I also find that the requested variance should be granted. A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

The property is irregularly shaped, waterfront, and split zoned. It is therefore unique. Petitioner would experience practical difficulty and hardship if the variance was denied because they would be unable to improve the parking capacity at their restaurant. I find that the variance can be granted within the spirit and intent of the BCZR and without harming the public health, safety, or welfare. Specifically, replacing the existing dilapidated structures with much needed parking will improve the aesthetics and safety of the neighborhood by increasing the number of spaces from 41 to 98. Mr. Bafitis and Mr. Kotroco acknowledged that they must comply with the CBCA requirements, including stormwater controls. Mr. Bafitis explained that filtering systems will be utilized to reduce runoff pollutant loads from their current level.

THEREFORE, IT IS ORDERED this **7th** day of **December, 2020**, by this Administrative Law Judge, that the Petition for Special Hearing seeking relief pursuant to § 409.8.B of the Baltimore County Zoning Regulations (“BCZR”) to allow business parking (customers and employees) in a residential zone is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief pursuant to § 409.6.A.2 of the Baltimore County Zoning Regulations (“BCZR”) to allow 98 parking spaces

in lieu of the required 139 for an existing restaurant business, and for such other and further relief as the nature of this cause may require and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at his 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, Petitioners would be required to return the subject property to its original condition.
- Petitioners shall submit for approval lighting and landscape plans prior to the issuance of permits. However, Petitioners may keep the existing Carson Creekside sign provided decorative pilings and plantings are installed around it. No additional signage shall be required.

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/dlm