

Tax Map/Block/Parcel
No. 45-15-328 & 487
Case 5942

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: City of Westminster Department of Public Works
56 West Main Street
Westminster, MD 21157

**ATTORNEY/
CONSULTANT:** Crystal Clark
GHD, Inc.
16701 Melford Blvd., Suite 330
Bowie, MD 20715

REQUEST: A request for a variance for reductions of a required side yard setback of 100 feet to 9 feet for the Solids Processing Building, and a setback for a rear yard of 50 feet to 22 feet for the Denitrification Facility and Emergency Generator #3 for a wastewater treatment plant.

LOCATION: The site is located at 1161 Old New Windsor Pike, Westminster, Maryland, on property zoned "C" Conservation District and "IG" Industrial General District, in Election District 7.

BASIS: Code of Public Local Laws and Ordinances, Sections 158.071(G)(1) and 158.080.

HEARING HELD: April 27, 2016

FINDINGS AND CONCLUSION

On April 27, 2016, the Board of Zoning Appeals (the Board) convened to hear the request for a variance for reductions of a required side yard setback of 100 feet to 9 feet for the Solids Processing Building, and a setback for a rear yard of 50 feet to 22 feet for the Denitrification Facility and Emergency Generator #3 for a wastewater treatment plant. Based on the testimony and evidence presented, the Board made the following findings and conclusions.

Michael Matov, a senior engineer for the City of Westminster, testified on behalf of the applicant. He works for the Westminster Department of Public Works. The project is funded by the state of Maryland via the Maryland State Department of the Environment. The purpose of the project is to increase the quality of treated wastewater and to comply with the new laws and

regulations concerning such treated water. The project would allow the sewage to be more environmentally friendly. The upgrading of the Waste Water Treatment Plant would make it compliant with the Maryland Enhanced Nutrient Removal guidelines. He stated that the project was essential for the City of Westminster.

Vincent Mallard, engineer, testified on behalf of the applicant. He works for the design consulting firm for the project. The City of Westminster is under a consent order with the Maryland State Department of the Environment. Three new things that will be added to the site include: a denitrification filter facility, an emergency generator #3, and the solids processing building. One building will need to be demolished and reconstructed elsewhere on the site. The wastewater treatment plant is landlocked and all improvements must be made on the same footprint of the site. All improvements and new construction must also occur while the existing wastewater treatment plant continues to operate during the construction period. Mr. Mallard testified that the facility was optimized as much as possible. The current design was reviewed by the Maryland Department of the Environment. The project was reviewed by the County Technical Review Committee in March, 2016. The project is expected to go out for bidding in August, 2016. The bids are expected to be received in November, 2016. A Notice to Proceed is expected to be issued in February, 2017. The construction duration will be about three and one half years. The construction project will cost at least 1.5 million dollars.

Mr. Mallard stated that the noise would be less following the construction. All of the new generators would have soundproof enclosures around them. He mentioned that blowers were needed as an important part of treatment facilities. A lot of the noise is associated with these blowers. Some of the new turbo blowers would be 150' south of the property about which Mr. Riley was concerned. The emergency generators would be used if there was a loss of power and not on a regular basis.

All of the work at the site needed to occur in the existing footprint. There was no space to make improvements outside of the existing site. For logistical reasons and operational requirements some items had to be in close proximity to other structures. The space at the site had to allow for a tractor trailer to be loaded within the facility. The tractor trailer also had to be able to have adequate space to maneuver at the site. Mr. Mallard stated that currently trucks travel to the landfill about five or six times a week. With the new construction the trucking ventures would be reduced to once a week.

Earl Gouker testified about nearby property at the site. He was the owner of the Westminster Livestock Auction. His concern was the variance with a reduction from 100' to 9'. He was also concerned about traffic and the reliability of a bridge.

Samuel Riley, an attorney, had an interest in the application. He had an interest in nearby historic property. He stated that the denitrification filter facility could be seen from the historic property known as Farm Content. He stated that Farm Content is within the Maryland Historic Trust. He was concerned about noise in the area.

There are properties on and around the site that are listed on the Maryland Inventory of Historic Properties. Farm Content is one of those historic properties. It is included on the

National Register of Historic Places and under conservation easements with the Environmental Trust and Carroll County Land Trust.

The property has a land use designation of Conservation and Industrial in the 2007 Westminster Environs Community Comprehensive Plan. The majority of the property is located in the Conservation zone.

An April 13, 2016 memorandum from Lynda Eisenberg, Chief, Bureau of Comprehensive Planning and Nokomis Ford, Planning Technician, states that the subject property has a land use designation of Conservation and Industrial. The staff finding is that this request is consistent with the 2007 Westminster Environs Community Comprehensive Plan and the Carroll County Water and Sewer Master Plan and would not have an adverse effect on the current use of the property or its surrounding environs.

All of the work at the site needed to occur in the existing footprint. The Little Pipe Creek runs through the property at the plant. There was no space to make improvements outside of the existing site of the wastewater treatment plant. For logistical reasons and operational requirements some items had to be in close proximity to other structures. The Board considered all of these factors in assessing the requested variances. The current plans have already had extensive reviews by both County and State officials. The wastewater treatment plant would undergo all of the renovation during a time while the facility continued to provide its current performances. Space alone was not the only variable to consider in the construction of the project. Because of the existing site, there were going to be restrictions on where contractors could park vehicles and set up equipment for the work. The Board was concerned about the historic sites near the project. However, City officials testified about the necessity for the project and the unavailability of an adequate alternative. City officials stated that they would address issues concerning the support on the bridge. City officials also agreed to take landscaping and noise concerns to individuals who would still review the project.

The Board was convinced that authorization of the variance requests for the reductions in setbacks was consistent with the purpose of the zoning ordinance, appropriate in light of the factors to be considered regarding conditional uses of the zoning ordinance, and would not unduly affect the residents of adjacent properties, the values of those properties, or public interests. Based on the findings of fact made by the Board above, the Board found that the proposed project would not generate adverse effects (i.e. noise, traffic, dust, water issues, lighting issues, property depreciation, etc.) greater here than elsewhere in the zone. The Board approved the variance requests by the applicant.

May 3rd, 2016
Date

Melvin E. Baile, Jr.
Melvin E. Baile, Jr., Chairman

Decisions of the Board of Zoning Appeals may be appealed to the Circuit Court for Carroll County within 30 days of the date of the decision pursuant to Land Use Article, Section 4-401 of the Annotated Code of Maryland.

Pursuant to Section 158.133 (H)(3) of the County Code, this approval will become void unless all applicable requirements of this section are met. Contact the Office of Zoning Administration at 410-386-2980 for specific compliance instructions.

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