

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(7920 Harford Road)		
9 th Election District	*	OFFICE OF ADMINISTRATIVE
6 th Councilmanic District		
7920 Harford Road, LLC	*	HEARINGS FOR
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2013-0305-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 Howard L. Alderman, Jr., Esquire with Levin & Gann, PA, on behalf of 7920 Harford Road, LLC, legal 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 modification of the relief/conditions in Case No. 99-479-SPHXA¹ to remove Condition Numbers 2, 6 and 9 to permit operation and approval of a service garage at this location. The subject property and requested relief is more fully depicted on the redlined site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the public hearing held for this case was Melissa, Christina & Steve Cascio, John Rohde and James Grammer. Howard L. Alderman, 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. Several interested citizens attended the hearing and their names are included in the case file. In addition, the Office of People’s Counsel submitted correspondence dated August 1, 2013, which was reviewed and

¹ The correct case number is Case No.: 99-470-SPHXA

included within the file.

The Zoning Advisory Committee (ZAC) comments were received and made a part of the file. The Department of Planning (DOP) supports the Petitioner's request provided the following conditions are met: (1) remove the temporary signage and replace with permanent structure (signage); (2) relocate the dumpster to the rear of the site and (3) submit a landscape and signage plan to the DOP prior to the application for any building permits. The Bureau of Development Plans Review (DPR) noted that a landscape plan should be reviewed and approved prior to the approval of any permits.

Testimony and evidence revealed that the subject property is approximately 0.2433+/- acres and is zoned BL-CCC. This property has been the subject of prior zoning hearings, most recently a 1999 Order granting Special Exception relief, and imposing ten restrictions which are the subject of this case. See Case No.: 99-470-SPHXA. The Petitioner proposes to operate an auto glass business at the site, and seeks to have removed from the 1999 Order certain of the restrictions referenced above.

At the outset of the hearing, I indicated that it was not clear why relief was required in the first instance. As counsel noted, the "use" is remaining the same; i.e., an auto "service garage," albeit a different genus of operation within that species. I also indicated that restriction 9 in the 1999 Order (restricting the variance and special exception to the named operator) was inappropriate, given that such relief runs with the land and is not personal to the parties applying for it. See, e.g., Anderson, American Law of Zoning (4th ed. 1996) §21.32 ("special permit may not be conditioned to terminate when the title to the land is conveyed to one other than the applicant").

In any event, the community is supportive of the Petitioner, and the file contains several letters from community groups and elected officials expressing support for the project. Ruth Baisden testified that her association Greater Parkville Community Council (GPCC) supports the petition, and she indicated they were particularly concerned with the landscaping required along Harford Road. Landscape architect John Rohde testified, and indicated he prepared a landscape plan (Exhibit 7) that was recently approved by Baltimore County. The DOP, and Mr. Zimmerman, expressed concern regarding the signage for the site. The Petitioner presented an Exhibit (Exhibits 3A and 3B) showing the modest signs proposed, and indicated they would be installed in the near future. The only ZAC comment that cannot be fulfilled concerns the dumpster placement and James Grammer testified and explained there was simply no room to relocate the dumpster to the rear of the site.

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

THEREFORE, IT IS ORDERED, this 22nd day of August, 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 remove Condition Numbers 2, 6 and 9 from the Order in Case No.: 99-470-SPHXA to permit operation and approval of a service garage at this location, be and is hereby **GRANTED** subject to the following conditions:

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