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|---|---|--------------------------------|
| IN RE: <b>PETITIONS FOR SPECIAL HEARING</b> | * | BEFORE THE                     |
| <b>AND VARIANCE</b>                         |   |                                |
| (2710 Hammonds Ferry Road)                  | * | OFFICE OF                      |
| 13 <sup>th</sup> Election District          |   |                                |
| 1 <sup>st</sup> Council District            | * | ADMINISTRATIVE HEARINGS        |
| 2710 Hammonds Ferry Road, LLC               |   |                                |
| <i>Legal Owner</i>                          | * | FOR BALTIMORE COUNTY           |
| <i>Petitioner</i>                           |   |                                |
|   | * | <b>Case No. 2018-0139-SPHA</b> |

\* \* \* \* \*

**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 2710 Hammonds Ferry Road, LLC, legal owner (“Petitioner”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: (1) to amend the previously approved Special Exception and site plan granted in Case No. 2016-053-XA to reduce the size of the Special Exception area for the used car sales to coincide with the new line of subdivision of the property; (2) to approve the acquisition of the adjacent property to allow for the expansion of the existing restaurant building as shown on the attached site plan; and (3) to amend the language of restriction No. 2 in the order for Case No. 2016-053-XA, to allow 40 automobiles to be displayed on the used car sales portion of the property.

A Petition for Variance seeks: (1) to allow an automobile sales building to be situated 6 ft. from a newly created property line in lieu of the required 30 ft.; and (2) to allow a zero ft. setback to a rear property line in lieu of the required 30 ft. for a proposed restaurant addition and to allow an 11 ft. front yard setback in lieu of the required 25 ft. to a property line and 50 ft. to the centerline of the road.

## SPECIAL HEARING

The petition for special hearing has three elements, the first two of which are uncontroversial. The first simply seeks to reduce the size of the used auto sales special exception area, which following approval by the DRC will be located on its own lot. The second seeks to approve, as reflected on the site plan, the acquisition of a small parcel adjoining the subject property at the northern boundary. This small, arrow-shaped parcel will permit Petitioner to expand the Landsdowne Inn restaurant which has operated at the site for many years. These are in essence housekeeping matters that will be approved.

The third special hearing request seeks to amend a condition contained in a 2016 zoning order which limited to 16 the number of cars permitted to be displayed for sale. The DOP opposes that aspect of this case, and in its ZAC comment it questioned “where and how” additional vehicles would be parked on the site. Mr. Richardson testified twenty parking spaces are shown on the plan as being allotted to the display of vehicles for sale (i.e., “inventory”). He explained the dimensions of the spaces will allow Petitioner to double stack the inventory, as in done in many new car dealerships.

While I believe 40 vehicles could be displayed in the allotted spaces, I am concerned it could cause the site to appear cluttered and impede the movement of vehicles and/or customers. As such, I will modify the restriction to allow no more than 30 vehicles to be displayed for sale within the special exception area shown on the site plan.

## VARIANCE

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 has an irregular shape (like an arrow head) and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be required to raze or relocate existing improvements. Finally, I find that the variances can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety and general welfare. This is demonstrated by the lack of community opposition. In fact, Mr. Panchigar indicated he met with the Landsdowne Improvement Association, which supports the requests.

THEREFORE, IT IS ORDERED this 28<sup>th</sup> day of **February, 2018**, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R”): (1) to amend the site plan approved in Case No. 2016-0053-XA to reduce the size of the special exception area for the used car sales to coincide with the new line of subdivision of the property; (2) to approve the acquisition of the adjacent property to allow for the expansion of the existing restaurant building as shown on the attached site plan; and (3) to amend restriction No. 2 in the order for Case No. 2016-0053-XA to allow 30 automobiles to be displayed on the used car sales portion of the property, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance: (1) to allow an automobile sales building to be situated 6 ft. from a newly created property line in lieu of the required 30 ft.; and (2) to allow a zero ft. setback to a rear property line in lieu of the required 30 ft. for a proposed restaurant addition and to allow an 11 ft. front yard setback in lieu of the required 25 ft. to a property line and 50 ft. to the centerline of the road, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its 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.
2. Prior to issuance of permits for the proposed expansion of the restaurant Petitioner must submit for approval by Baltimore County landscape and lighting plans for the entire site.
3. Within 30 days of the date hereof Petitioner shall remove from the site any temporary signs, banners or other signage for which a permit was not issued by Baltimore County.
4. Petitioner shall submit for approval by the DOP elevation drawings or renderings of the proposed restaurant addition.
5. Petitioner shall construct along the rear of the property adjoining the railroad tracks a chain link fence or landscape screen.
6. The trailer which serves as an office on the used car sales site must be painted or finished with materials that are compatible with and complement the exterior of the Landsdowne Inn.

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

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:sln