

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(1746 Joppa Road)</b>		
9 <sup>th</sup> Election District	*	OFFICE OF
5 <sup>th</sup> Council District		
1746 East Joppa Road Associates, LLC	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
	*	FOR BALTIMORE COUNTY
<b>Petitioner</b>		
	*	<b>Case No. 2019-0254-SPH</b>

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**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of 1746 East Joppa Road Associates, LLC, legal owner (“Petitioner”). The special hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) for confirmation that a service garage can be operated on the property as a legal nonconforming use. A site plan was marked and admitted as Petitioner’s Exhibit 1.

Jim O’Connor, Fredric Tomarchio and professional engineer John Motsco appeared in support of the petition. Jason T. Vettori, Esq. represented Petitioner. Mike Pierce attended the hearing to express concern about certain signs at the property. The Petition was advertised and posted as required by the BCZR. No substantive Zoning Advisory Committee (ZAC) comments were received from any of the reviewing County agencies.

The subject property is 8,121 square feet in size and is split-zoned BL, BLR and DR 5.5. The property is improved with a warehouse-type structure constructed in 1973. An automotive service garage has operated in the building for many years, and leases were submitted to substantiate this fact. Pet. Ex. Nos. 2 & 3. A deed was submitted (Pet. Ex. 4) showing Petitioner purchased the property in 1999, at which time it was zoned BR, which permits by right a service

garage. Documents were submitted showing the zoning was changed to BLR in the 2000 Comprehensive Zoning Map Process (“CZMP”). See Pet. Ex. 6. That zone does not permit a service garage by right or special exception.

Even so, the proffered testimony and documents submitted at the hearing establish to a reasonable degree of certainty a service garage was operating lawfully at the site prior to the zoning change in 2000. There is also no evidence the use was discontinued for a period of at least twelve (12) months. Generally speaking, a nonconforming use is one that was operating lawfully as of the date zoning regulations were first adopted which rendered the use non-permitted. *Howard County v. Meyer*, 207 Md. 389 (1955). The BCZR defines a nonconforming use as “[a] legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use.” BCZR §101.1. As such I believe the service garage qualifies as a lawful nonconforming use pursuant to BCZR §104 and the case law.

THEREFORE, IT IS ORDERED this 30<sup>th</sup> day of **April, 2019** by this Administrative Law Judge, that the Petition for Special Hearing for confirmation that a service garage can be operated on the property as a legal nonconforming use, 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, Petitioner would be required to return the subject property to its original condition.
2. No banners, flags, sandwich boards, A-frames or temporary signs of any type shall be permitted at the subject property.

Any appeal of this decision must be filed 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:slh