

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No.03-6308

George Majchrzak, Inc.
11825 Belair Road
Kingsville, MD 21087

11819 Belair Road

Respondent

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on August 22, 2005, for a hearing on a citation for violations under the Baltimore County Code §3-6-401; 3-6-402; 32-3-602; 32-3-603; 32-3-604; 32-3-605; 32-3-606;32-3-607 and Baltimore County Zoning Regulations §101;102.1; 431 for failure to comply with consent order dated January 5, 2005 by parking commercial vehicles on residential property zoned RC 5 located at 11819 Belair Road.

On May 9, 2005, pursuant to §3-6-205, Baltimore County Code, a code enforcement citation was issued by Sophia Jennings, Code Enforcement Officer. The citation was legally served on the Respondent.

The citation proposed a civil penalty of \$13,200.00 (thirteen thousand two hundred dollars) to be assessed. A code enforcement hearing date was scheduled for August 22, 2005.

George Majchrzak, Respondent appeared for the hearing and testified.

C. Robert Loskot, Esquire presented the case for Code Enforcement.

Joel M. Sauer, Esquire appeared as counsel for the Respondent

On October 6, 2004 George Majchrzak, Inc. hereafter referred to as GMI entered into a compromise and settlement with the County Board of Appeals wherein Mr. Majchrzak agreed to among other things to 1) conduct no activity other than activities associated with a single family dwelling shall take place on the premises known as 11819 Belair Road, 2) the storage of any kind and all vehicles associated with the service garage business next door shall cease. On the 5th day of January, GMI entered into a consent agreement with Baltimore County wherein among other provisions GMI agreed to 1) comply with all applicable provisions of the Baltimore County Code and the Baltimore County Zoning Regulations, 2) agreed to comply with the Order of the County Board of Appeals, Case # CBA-04-139, dated December 2, 2004.

Sophia Jennings testified that on February 11, 2005 a changeable copy sign was affixed to a truck with dealer tags. The sign was in violation of sign regulations. Mr. Majchrzak was informed and moved the vehicle. It is unclear by testimony whether the truck was located on 11825 or 11819 Belair Road. The truck described coincides with a photograph entered as Community Exhibit #1 taken on January 17, 2005 by Michael Pierce.

Ms. Jennings reported that on April 4, 2005 an untagged F150 pickup was parked in front of the garage located at 11819 Belair Road. She re-inspected on April 15, 2005 and stated that the untagged F150 was replaced by a red and white truck with a transporter tag.

On April 24, 2005, Ms. Jennings made a weekend visit and saw 3 vehicles parked on the property, one with dealer tags, one with regular tags and a blue Chevy tracker with transporter tags.

Ms. Jennings issued a citation on May 9, 2005. The citation is marked as County Exhibit #1.

Ms. Jennings stated that she made an inspection on June 6, 2005 and saw a white Chevy pickup without tags of any kind parked partially on 11819 Belair Road in front of the garage. This truck is shown in two photographs marked County Exhibit #2. Ms. Jennings returned on June 15, 2005, took 9 photographs marked as County Exhibit #3 showing the Chevy truck displaying Dealer tags and parked in front as if on display.

Ms. Jennings made seven inspections from July 9, 2005 through August 21, 2005 finding no apparent violations except that she believes a ramp used to display vehicles for sale is partially on the residential property therefore in her mind constitutes a violation of the consent order. Ms. Jennings also stated during the course of the hearing that she believed the white Chevy pickup should not be parked on the property, inferring the vehicle violates the intent of the agreement. There are additional exhibits on the record showing numerous snapshots of the property. Many show the display ramp with a vehicle on board considered by the inspector to be partially on the residential lot therefore in violation. Determining the property line proves to be crucial part of this case. Ms. Jennings believes the line is at the curb cut; which serves as the original entrance of 11819 Belair Road and extends alongside the garage toward the rear yard.

Carole Maier testified as an interested community member. She stated her great aunt lived at 11819 Belair Road or many years. Ms. Maier visited the property many times during the time of the great aunt's occupancy of the premises. Ms. Maier stated that the driveway curb cut is located where the entrance used to be for the residence.

Mr. Michael Pierce of 7478 Bradshaw Road also testified. Included in his testimony was an opinion that the display ramp was on GMI property at the time of the consent order and that sometime subsequent to the order the ramps were moved partially onto the residential property.

George Majchrzak testified that there is a steel re-bar pin located at the corner of the property shared by a neighbor, Mr. Majchrzak measured 99 feet from the pin along the front of the property and placed a pipe at the 99' mark along this front side so the placement of the display ramp should be on the property of 11825 by some 3 feet plus according to Mr. Majchrzak. The deed and description is included in part of the file. I took the liberty of having the description of the property plotted. It clearly shows the 24' + or - saving and exception deeded to the State Road Commission in 1934 by the Greens. This plot shows the property at one time to have a boundary line at or near the center of the street. This plot supports Mr. Majchrzak's assertion that his 99' measurement along a parallel line to the center of the street to be 3' plus beyond the line of 11825 Belair Road. This plot is enclosed with this order and marked as Hearing Officer's Exhibit #1.

Previous testimony by Sophia Jennings regarding the curb cut for a previous existing driveway and her opinion that the edge of the curb cut next to the business is the approximate line. The file contains a zoning map showing zoning lines superimposed over what appears to be a parcel map. The parcel map shows a dotted line indicating a one time existing driveway. The BM-CR zoning line is shown to lie inside the curb cut and extends along the side of the property touching the rear corner of the garage situated on the 11819 Property. It is my opinion based on the zoning map, this zoning demarcation map and the testimony of Mr. Pierce and Mr. Majchrzak appear to co-inside to a degree and is convincing enough to effect a finding that the car ramp is not on the residential property or at the minimum is not across the zoning line but is located on the BM-CR zoned area. The zoning line as shown clearly is inside the curb cut and the 99' measured by Mr. Majchrzak to the pipe indicates the ramp is not placed on or in the residential zone.

Subsequent to the Hearing on August 25, 2005 Mr. Sauer contacted the office declaring that a survey was to be performed to determine the actual property line. It was agreed to disrupt the writing of this Order pending submission of the survey. The survey was performed by K.L.S. Consultants, Inc. and is included as an addendum to the Order. Upon receiving the survey, the Hearing Officer requested Code Enforcement Officer, Mark Gawel visit the site with survey in hand to locate the field determined iron bars and the recently set markers showing the side property lines. Mark verified that the curb cut is in fact partially beyond the property line dividing the business enterprise and the residence. In fact a yellow line of demarcation has been painted on the surface showing a clear division line between the commercial use and the residential use. Mr. Gawel has determined that the painted line is at or on the property line and intersects the certified pin settings as shown on the survey by K.L.S. Consultants, Inc.

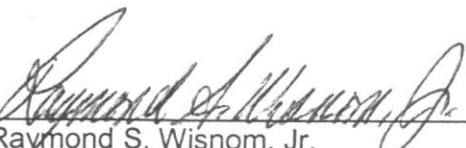
The citation cites the Respondent for parking commercial vehicles on residential property. The citation should have cited the Respondent for parking vehicles associated with the business at 11825 Belair Road on residential property located at 11819 Belair Road. It is clear there were no commercial vehicles parked on the residential lot however there was a white Chevy pickup parked on the lot without tags. This vehicle may be the commercial vehicle referred to by the inspector in that it also appeared to be displayed for sale. County Exhibit #2 shows this Chevy pickup clearly without tags. What is not clear is whether the untagged vehicle is parked on the residential property. Photographs entered as exhibits and there are many taken on numerous occasions point to the fact that the property at 11819 Belair Road is for the most part adhering to the consent agreement except for the apparent untagged

vehicle that may have been partially stored on the residential property however, evidence presented does not clearly establish that the vehicle was parked on the residential property. The agreement requires that no more than four dealer-tagged vehicles may be parked on the property at any one time and that for sale signs may be affixed offering the vehicle for sale. The Respondent has not breached this section of the agreement according to testimony and evidence presented. In fact, in nearly all photographs, the 11819 Belair Road property is shown to be predominantly clear and open space with the occasional dealer tagged vehicle or so with no signs offering the vehicles for sale.

The property appears to be used in a compliant manner in accordance with the consent agreement. The transporter tag versus the dealer-tag moniker is hereby considered a version of or type of dealer tag therefore not an issue. In other words, the fact that one car with transporter tags and three cars with Dealer tags or any combination thereof for maximum total of 4 vehicles so tagged are allowed. Untagged vehicles are considered to be associated with the service garage business and as such are allowed to be stored on the BM-CR zoned property without a tag.

IT IS ORDERED by the Code Enforcement Hearing Officer, this 14th day of September 2005, that citation #03-6308 issued on May 9, 2005 is hereby dismissed as evidence presented indicates that the property known as 10819 Belair Road is used in a compliant manner and in accordance with the consent agreement entered into and agreed to by Baltimore County and George Majchrzak.

Signed:

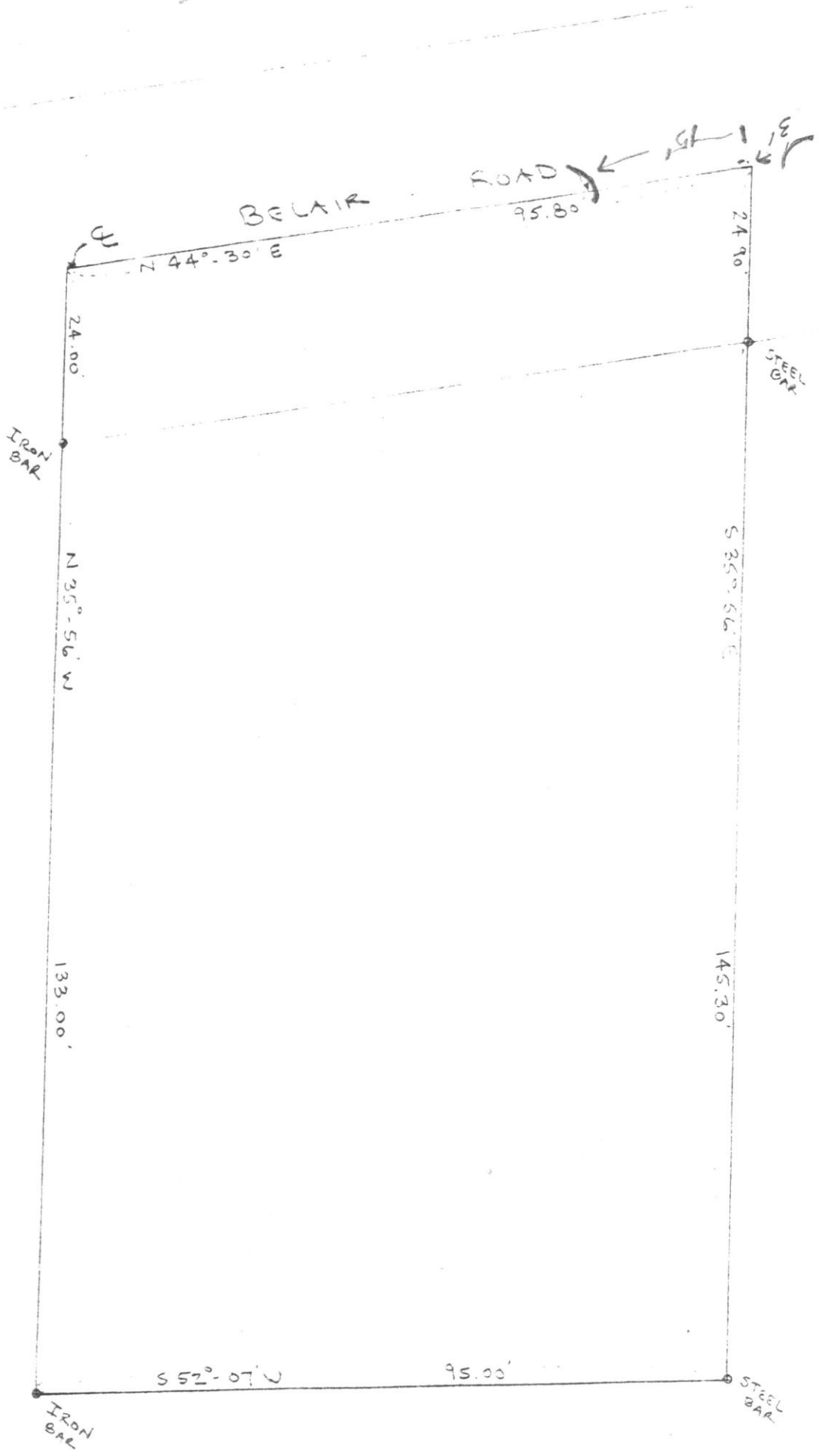

Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

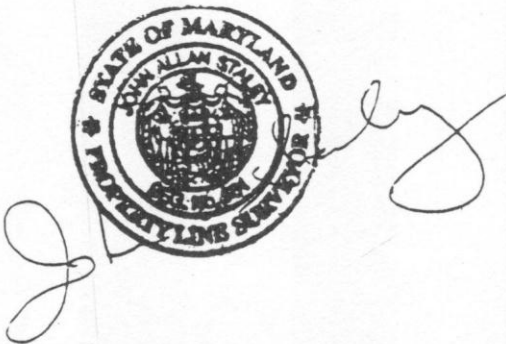
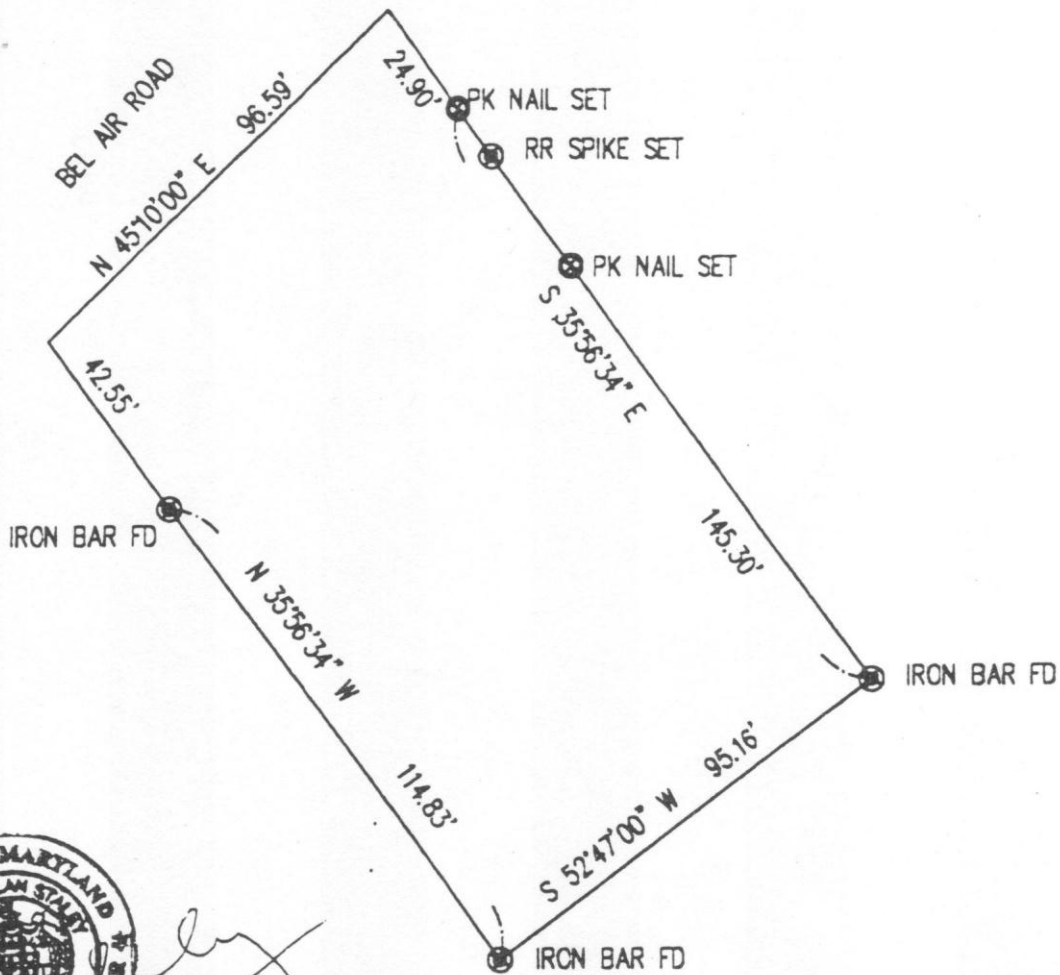
The violator is advised that pursuant to §3-6-301(a), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §3-6-302(a)(b)(c)(d) requires the filing of a petition setting forth the grounds for appeal and a filing fee of \$150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

H O EXHIBIT 1

George

Scale 1" = 20'





DEED REF: 15623/690
TAX MAP 55 PARCEL 135

SCALE: 1"=40'	DATE 09/01/05	SURVEYOR K.L.S. CONSULTANTS, INC. 4401 PHILADELPHIA ROAD BEL AIR, MARYLAND 21015 (410) 734-0445	SURVEY PLAT
DR. BY JAS	CHK'D BY JEC		LAND OF MAJCHRZAK
DWG. NO. 0595A	PROJ. NO. 0595		11819 BELAIR RD KINGSVILLE, MD 21087