

IN RE: PETITION FOR SPECIAL EXCEPTION *	BEFORE THE
E/S North Point Boulevard, 100' S of	
Wise Avenue *	ZONING COMMISSIONER
(4412 North Point Boulevard)	
15 th Election District *	FOR
7 th Council District	
	BALTIMORE COUNTY
Ronald Hlopak, et ux	
Petitioners *	Case No. 2009-0049-X

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Exception filed by the legal owners of the subject property, Ronald T. Hlopak, and his wife, Sandra L. Hlopak. The Petitioners request a special exception to allow the sale of used motor vehicles on the major portion of the subject property located in a B.R.-A.S. Zone. The subject property and requested relief are more particularly described on the site plan submitted, which was accepted into evidence and marked as Petitioners' Exhibit 1.

Appearing at the requisite public hearing were Ronald and Sandra Hlopak, property owners, and Joseph L. Larson of Spellman, Larson & Associates, Inc., the consultant who prepared the site plan. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is a rectangular shaped parcel on the east side of North Point Boulevard (MD Route 151) just south of Wise Avenue in the Dundalk/Sparrows Point area. The property is approximately 156 feet wide and 123 feet deep and contains a gross area of 0.45 acres, more or less, zoned B.R.-A.S. (Business, Roadside in the Automotive Services District). Presently, the property is improved with a 23' x 30' two-story structure with supporting parking (seven [7] spaces) located on the southwest corner off the lot used as a tattoo parlor. This building, as delineated on the site plan (Petitioners' Exhibit 1), is

surrounded by hatch marks designating a lot area of 85' wide and 52' deep. This hatched area consists of approximately 4,000 square feet, operates separately, is not a part of the special exception area and has its own curb cut for ingress and egress to North Point Boulevard. The remaining major portion of the lot is completely fenced, contains 0.39 acres¹ and will serve as the used motor vehicle sales area. This lot shaded in blue on Petitioners' Exhibit 1 is improved with a small office (15' x 34'), a combination three-bay garage and office (68' x 28') and ten (10) parking spaces. The remainder of the lot is labeled auto storage yard and has its own access to North Point Boulevard.

An appreciation of the property's past history and use is relevant and briefly outlined. Mr. Hlopak testified that since his birth in 1941 his parents owned the subject property with the improvements described above. Since the early 1950's through to the 1990's, the property served as "Ron's Used Cars". In 1993 following his mother's death, the Petitioners took title to the property and the use was converted from that of used motor sales to the sale of boats.² The Petitioners now appear, as they must, desirous of again utilizing the special exception area for the sale of used cars, using the same space arrangement that was previously used since the early 1950's. In this regard, the site has been completely restored to its pre-boatyard condition. As evidenced by Petitioners' photographic Exhibits 2A (before) and 2B (after), all boats and debris

¹ The legal description for the Special Exception area is described as follows: "BEGINNING for the same at a point on the east side of North Point Boulevard (Maryland Route 151) said point being 100 feet more or less southerly from the south side of Wise Avenue and running thence for a line of division south 85 degrees 27 minutes 00 seconds east 122.74 feet thence south 1 degree 52 minutes 00 seconds west 156.00 feet thence north 87 degrees 15 minutes 00 seconds west 79.00 feet thence north 1 degree 52 minutes west 33.00 feet thence south 87 degrees 15 minutes east 8.40 feet thence north 1 degree 52 minutes west 52.00 feet thence north 87 degrees 15 minutes west 52.53 feet to a point on the east side of North Point Boulevard thence running along the east side of North Point Boulevard north 1 degree 52 minutes 00 seconds west 74.85 feet to the place of beginning."

² A boatyard is a permitted use by right in the B.M. zone per Section 233.2 of the B.C.Z.R.

have been removed from the lot and the improvements thereon rehabilitated to an attractive condition.

In order for special exception relief to be granted, the Petitioner must meet the burden set forth in Section 502.1 of the B.C.Z.R. Generally, the Petitioner must demonstrate that the proposed use will not be detrimental to the health, safety and general welfare of the locale. (*See Schultz v. Pritts*, 291 Md. 1 (1995). Moreover, as has been emphasized by the Court of Appeals in discussing the law of special exceptions, it must be shown that the proposed use at the subject location will not cause any adverse impacts above and beyond those inherently associated with such use elsewhere in the zone. (*See e.g., Mossberg v. Montgomery Co.*, 321, Md. 494 (1993) and *People's Counsel for Baltimore County v. Loyola* _____ Md. _____ (2007).

After due consideration of the proffered testimony presented by Mr. Larson and the Petitioners, I find that the relief requested complies with the special exception requirements set forth in Section 502.1 of the B.C.Z.R. The proposed use is an appropriate use of the subject site (as it had been for the past 40 years) and will not be detrimental to adjacent properties.

Pursuant to the advertisement, posting of the property and public hearing on the Petition held and for the reasons set forth herein, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 14th day of October 2008, that the Petition for Special Exception seeking approval of the use of the subject property for the sale of used motor vehicles, pursuant to Section 236.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioners' Exhibit 1, be and is hereby granted, subject to the following restrictions:

- 1) The Petitioners may apply for their use permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal

- 2) All signage will be in accordance with the B.C.Z.R. and there shall be no flashing lights, banners, balloons, or other similar advertising on the site.
- 3) There will be no mechanical repairs or automotive body or fender repair work performed on site.
- 4) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

WJW:dlw

SIGNED
WILLIAM J. WISEMAN, III
Zoning Commissioner for
Baltimore County