

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
N/side of Sudbrook Lane, 40' W of c/line of	*	ZONING COMMISSIONER
DeRisio Lane		
<b>(4 Sudbrook Lane)</b>	*	OF
3 <sup>rd</sup> Election District		
2 <sup>nd</sup> Council District	*	BALTIMORE COUNTY
Heirs of John F. Basement, et al, <i>Legal Owners</i>	*	<b>Case No. 2009-0072-SPHA</b>
Howard Rothschild, D.D.S., <i>Contract Purchaser</i>		
<i>Petitioners</i>	*	

\* \* \* \* \*

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the owners of the subject property, James Baseman, Patricia B. Chazen, Joseph F. Baseman, John F. Baseman, Jr., Michael Baseman, Laretta M. Baseman, Nancy L. Marchman, Daniel E. Baseman and Deborah E. Baseman and the contract purchaser, Howard Rothschild, D.D.S., through their attorney, Mark D. Dopkin, Esquire. The Petitioners request a special hearing to approve an existing building for use as a Class A office building with 43% of total adjusted gross floor area occupied by medical offices, and to approve a modified parking plan pursuant to Section 409.12. In addition, the Petitioners request variance relief from Section 204.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit 43% of the total adjusted gross floor area of an existing Class A office building to be occupied by medical offices in lieu of 25% allowed; from B.C.Z.R. Section 409.4, to permit a two-way driveway 10 feet in width in lieu of 20 feet required; from B.C.Z.R. Section 409.8.A.4, to permit a parking space in a surface parking facility for a nonresidential use to be 0 feet from the right-of-way line of a public street in lieu of 10 feet required; and from B.C.Z.R. Section 409.8.A.1, B.C.Z.R., and the Baltimore County Landscape Manual to permit a landscape strip of 0 feet between an existing paved surface and a lot line in a commercial zone, in lieu of six (6) feet

required. 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 in support of the request were Howard Rothschild, contract purchaser; Richard E. Matz, the professional engineer who prepared the site plan, and Mark D. Dopkin, Esquire, attorney for the Petitioners. Appearing as interested citizens were Marshall Janoff, a realtor with Long and Foster, assisting the family, Patricia B. Chazen, one of the owners, and Pierce Macgill, a representative of the Baltimore County Department of Economic Development. There were no Protestants or other interested persons present; however, a letter in opposition was received from the Sudbrook Park, Inc.

Testimony and evidence offered revealed that the subject property is a rectangular shaped parcel located near the northwest corner of the intersection of Sudbrook Lane and DeRisio Lane in Pikesville. The property contains a gross area of 0.33 acres, more or less, and is zoned R-O (Residential Office). As shown on the site plan, the property is improved with a 3-story building with basement, the first floor of which has an extension in the rear. The property is currently vacant. The property is under contract to Dr. Howard Rothschild. Testimony indicated that Dr. Rothschild is licensed as a dentist by the State of Maryland and specializes in reconstructive dentistry and maintains an office in Pikesville. Dr. Rothschild intends to relocate his office to the first floor of the existing building. In terms of gross area, the first floor encompasses 43% of the total floor area of the building. Dr. Rothschild further indicated that the upper floors would be used for general office use and that the basement would be used only for storage. At the outset of the hearing it was noted that the site plan submitted as Petitioners' Exhibit 1 had been redlined to reflect changes requested by People's Counsel, Peter Max Zimmerman; namely, widening the entrance to sixteen feet (16') and relocating the parking pad in the front of the building.

It is to be noted that the residential appearance is to be maintained. All other buildings on Sudbrook Lane in the immediate area enjoy office use. Office use, including medical offices, is a use permitted in the zone. In addition, the property is surrounded by properties in commercial

use. In this regard, the proposed use conforms to the legislative intent and policies articulated in B.C.Z.R. Section 204. As will be discussed below, any attempt to modify the existing configuration of the structure to comply with the 25% limitation set forth in Section 204.3.B would create a practical difficulty.

The Office of Planning does not oppose the variance requested provided certain conditions are met. Petitioner indicated that he was willing to comply with the conditions suggested by the Office of Planning with the exception of certain proposed limits on signage.

Mr. Macgill appeared at the hearing on behalf of the Baltimore County Department of Economic Development. His organization fully supports the proposal. He indicated that the Petitioner's practice is appropriate for this location and will not result in detrimental impacts to adjacent properties and uses. In addition, the rehabilitation of this building is consistent with the Pikesville Revitalization Plan and would be eligible for various tax credits and grants.

With regard to the request for special hearing to approve an existing building for use as a Class A office building with 43% of total adjusted gross floor area occupied by medical offices, and to approve a modified parking plan pursuant to Section 409.12, I find that the first floor of the building on the property, comprising 43% of the total adjusted gross floor area is not susceptible to partition for more than one use. Since the proposed use by a small dental practice is self-limiting, the impacts of changing the use to medical office space is negligible. Accordingly, I find that the proposed use will not be detrimental to the health, safety, or general welfare of the area; which is now characterized by similar conversions; will not create congestion in roads, streets, or alleys; will not create a potential hazard from fire, panic, or other dangers; will not overcrowd land or cause undue concentration of population; will not interfere with adequate provisions for schools, parks, water, sewerage, transportation, or other public requirements, conveniences, or improvements; will not interfere with adequate light and air; will not be inconsistent with the spirit and intent of the B.C.Z.R.; and will not be inconsistent with the impermeable surface and vegetative retention provisions of the regulations.

Four (4) variances are also requested. I find that the property is unique because of its

location within the Commercial Revitalization District, the location of existing improvements and its narrow width. In addition, I find that strict compliance with the B.C.Z.R. would result in practical difficulty and unreasonable hardship to the Petitioners to use the property for the uses allowed by its current zoning. Without the requested variances the existing improvements could not be retained without modifying the exterior and would be contrary to the stated goal of the R-O zone. I also note that the adjoining property at 2 Sudbrook Lane was acquired by Baltimore County for the right-of-way for DeRisio Lane. To the extent that this taking changed the requirement for side yard setbacks the Zoning Commissioner's Policy Manual calls for the variances to be granted and doing so is consistent with long-standing practice by the Zoning Office and as applied by my predecessors. Despite the concerns raised by Sudbrook Parks Steven Doll, I find the granting of this relief will not have a detrimental impact. The exterior structure is not changing, the asphalt parking in front of home already exists (*See* Petitioners' Exhibit 3) and will be further reduced and buffered with landscaping.

After due consideration of the testimony and evidence presented I am persuaded to grant the requested relief. It is clear that strict compliance with the zoning regulations would result in a practical difficulty and unreasonable hardship for the Petitioners and that the use proposed will not be detrimental to the surrounding locale.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions 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 5<sup>th</sup> day of November, 2008 that the Petition for Special Hearing to approve an existing building for use as a Class A office building with 43% of total adjusted gross floor area occupied by medical offices, and to approve a modified parking plan pursuant to Section 409.12, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance relief from Section 204.3, B.C.Z.R., to permit 43% of the total adjusted gross floor area of an existing Class A office building to be occupied by medical offices in lieu of 25% allowed; from B.C.Z.R. Section 409.4,

to permit a two-way driveway 10 feet in width in lieu of 20 feet required; from B.C.Z.R. Section 409.8.A.4, to permit a parking space in a surface parking facility for a nonresidential use to be 0 feet from the right-of-way line of a public street in lieu of 10 feet required; and from B.C.Z.R. Section 409.8.A.1, and the Baltimore County Landscape Manual to permit a landscape strip of 0 feet between an existing paved surface and a lot line in a commercial zone in lieu of six (6) feet required in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their permits 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 period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The proposed use of the property for a medical office will be restricted to the first floor.
- 3) Any signage shall be limited as reflected on Petitioners' Exhibit A.
- 4) The two (2) parking spaces in front of the building shall be buffered with landscaping.
- 5) Existing paving that is not being replaced with new paving shall be removed.
- 6) A new sidewalk shall be installed in the public right-of-way in front of the property.
- 7) When applying for any permits, the site plan and/or landscape plan filed must reference this case and set forth and address the restrictions of this Order.

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

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