

IN RE: PETITIONS FOR SPECIAL EXCEPTION * AND VARIANCE	BEFORE THE
S/S of Carvon Road, 156' W c/line of Reisterstown Road	* ZONING COMMISSIONER
(5 Carvon Road)	* FOR
4 th Election District	*
4 th Council District	BALTIMORE COUNTY
Igor Braun, et ux, <i>Legal Owner</i>	*
Alexandr Braun, <i>Contract Lessee</i>	*
Petitioners	*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Exception and Variance filed by the owners of the subject property, Igor Braun, and his wife, Alla Braun, and Alexandr Braun, the Contract Lessee. The Petitioners request a special exception for a used motor vehicle outdoor sales area, separated from a sales agency building pursuant to Section 236.4 of the Baltimore County Zoning Regulations (B.C.Z.R.). In addition, variance relief is requested pursuant to Section 238.4 of the B.C.Z.R. to permit storage and display of materials, vehicles and equipment in the front yard 28.5 feet in front of the front building setback line in lieu of 15 feet permitted.¹ The subject property and requested relief are more particularly described on the redlined 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 Alla Braun, property owner, Alexandr Braun, the Lessee, and Richard E. Matz, professional engineer, as well as Lisa Junter and Lisa Dayan also with Colbert Matz Rosenfelt, Inc., the engineering firm who prepared the

¹ B.C.Z.R. Section 238.1 in this case establishes the front property line as being "not less than 50 feet from the centerline" of Carvon Road as illustrated on the redlined site plan submitted at the hearing.

site plan and assisting the Petitioners with the permitting process. It is to be noted that David A. Green, a community planner with the Office of Planning, appeared and participated at the hearing. There were no Protestants in attendance at the hearing.

Testimony and evidence revealed that the subject property is an irregularly shaped rectangular parcel located on the southwest side of Carlvon Road, just west of Reisterstown Road in Owings Mills. The property has approximately 120 feet of frontage on Carlvon Road, is 228 feet deep and narrows to 65 feet at the rear of the property where it crosses a stream known as the Gwynns Falls. The property contains a gross area of 18,019 square feet or 0.414 acres. The owners, who operate a successful moving and storage business, filed an application for change of zoning classification during the *Baltimore County 2008 Comprehensive Zoning Map Process*. That application, supported by the Office of Planning and the action taken by the Baltimore County Council, changed the zoning on the subject property from B.L. (Business, Local) to B.R. (Business, Roadside) in its entirety. Presently, the property is improved with a one and one-half story building and a large, paved front yard area. These improvements are visually depicted on Petitioners' Exhibits 2A and 2B. The building was at one time used as a used furniture sales and display business; however, had become vacant for some time. It is to be noted that the property is environmentally constrained with a large area, including the building being within the 100-year floodplain. Mr. Matz explained that the Petitioners do not propose any redevelopment such as grading, paving or expansion of the building envelope footprint. He noted, by redline, on the site plan, the 100-year water level as interpreted from the Baltimore County Flood Study of November 28, 1989. These environmental constraints near the Gwynns Falls stream and the property's configuration prevents paving on the southern half of the site and drives the need to park vehicles on

the northern portion of the property closest to Carlvon Road out of the 100-year floodplain. The Petitioners acquired the property in 2006 with the original intent to redevelop the site for furniture storage, a use by right in the B.R. zone but have now contracted to lease the property for a used car sales operation. This is significant as this use must comply with the B.C.Z.R. as it relates to signage, storage of vehicles and setbacks, etc.

Testimony further indicated that the proposed use car sales business will operate six (6) days a week from 9:00 A.M. to 7:00 P.M., Monday through Friday, and 9:00 A.M. to 5:00 P.M. on Saturday. Alex Braun indicated that approximately 17 cars would be stored on the site. Cars will be cleaned and aesthetically made ready for sale at the subject site; however, no mechanical repairs or body/fender work will be done on site. It was also indicated that most vehicles will be driven to the site, and thus, there will be no large car carriers unloading on the property. As shown on the site plan, the existing brick building will provide retail sales space of approximately 1,158 square feet. Parking for up to four (4) vehicles will be provided to the rear of the structure, and the proposed use motor vehicle display area will be located on the front portion of the site.

Based upon the testimony and evidence presented, I am persuaded that special exception relief should be granted. This is a commercial retail area with a veterinarian hospital and Rite Aid nearby and the proposed use according to Dave Green is compatible with the locale. I easily find that the standards set forth in Section 502.1 of the B.C.Z.R. have been met and there is no evidence that the proposed use with its attendant 30 vehicle trips per day will increase traffic volumes nor will it be detrimental to the health, safety and general welfare of the locale.

As noted above, variance requests have been requested. One variance is to allow the storage and display of vehicles 28.5 feet in front of the front building setback line in lieu of the

maximum allowed 15 feet. This variance is driven by the location of the floodplain, the positioning of the existing building and the ingress and egress area that runs along the southern portion of the site. It is typical with used car operations that the proposed display of vehicles will be immediately adjacent to that right-of-way to increase visibility. Thus, the requested variance is necessary. It is also to be noted that the proposed display areas in the front of the site immediately adjacent to Carlton Road will not block sight distance and will not be within the right-of-way.

The second variance needed in my opinion is to allow parking spaces a minimum of 5 feet from the street right-of-way in lieu of the required 10 feet. Again, this variance is necessary to accommodate the front row display area, which is in an area formerly used by a used furniture retail business for parking. I am persuaded that the Petitioners have met the requirements of Section 307 of the B.C.Z.R. for relief to be granted and that the proposed use is an appropriate adaptive reuse of the subject property.

Although there were no Protestants or other interested persons present, a Zoning Advisory Committee (ZAC) comment was submitted by Dave Green of the Office of Planning, requesting that certain conditions be attached to any approval. Specifically, he has requested that a landscape and lighting plan be submitted, as well as assuring that ingress and egress to the property be consistent with the Baltimore County Public Works Standards. The comment also suggests that no vehicles be displayed in the right-of-way and indeed, the site plan shows that they will be setback a minimum of 5 feet from the right-of-way line. The Petitioners indicated that an attachment of these conditions as restrictions to the requested relief was acceptable and it appears appropriate for the redevelopment of this site.

Pursuant to the advertisement, posting of the property and public hearing on these

Petitions held, and for the reasons set forth above, the relief requested shall be granted with conditions.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 17th day of December, 2008, that the Petition for Special Exception seeking relief from Section 236.4 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a used motor vehicle outdoor sales area, separated from a sales agency building, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 238.4 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit storage and display of materials, vehicles and equipment in the front yard 28.5 feet in front of the front building setback line in lieu of 15 feet permitted, and from Section 409.8.A.4 to permit parking spaces a minimum of 5 feet from the street right-of-way in lieu of the required 10 feet, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED subject to the following restrictions which are conditions precedent to the relief granted herein:

- 1) The Petitioners may apply for their use permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason this order is reversed, the Petitioners shall be required to return, and be responsible for returning said property to its original condition.
- 2) Within sixty (60) days of the date hereof, the Petitioners shall provide the Office of Planning landscape and lighting plans for its review and approval.
- 3) No body or fender work shall be performed on the site including the painting of vehicles.
- 4) No vehicles in a damaged or disabled state may be stored or allowed to remain on the property for more than thirty (30) days.

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

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