

IN RE: PETITIONS FOR SPECIAL EXCEPTION	*	BEFORE THE
AND VARIANCE		
N/S Dogwood Road, 450' W c/line of	*	ZONING COMMISSIONER
Ambassador Road		
(6824-6826 Dogwood Road)	*	FOR
2 nd Election District		
4 th Council District	*	BALTIMORE COUNTY
 Javed A. Aizaz	*	
Petitioner		Case No. 2009-0155-XA

* * * * *

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 owner of the subject property, Javed A. Aizaz. The Petitioner requests a special exception to permit a proposed service garage use on the subject property in the Manufacturing Light, Industrial Major (M.L.-I.M.) zoning classification, pursuant to Section 253.2.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.). In addition, the Petitioner requests relief from Sections 255 and 238.2 of the B.C.Z.R. to allow the proposed service garage and convenience store structure with a side setback (east side) of 20 feet in lieu of the required 30 feet. The subject property and requested relief are more particularly described on the redlined site plan submitted, which was accepted into evidence and marked as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the request were Stanley W. Reicke, a contractor with Truly Built Enterprises, Co., on behalf of the property owner, and Bernadette L. Moskunas, with Site Rite Surveying, Inc., the engineering firm who prepared the site plan and assisting the Petitioner through the permitting process. Also appearing and participating was David A. Green, a senior planner with the Office of Planning, assigned to the fourth councilmanic district, who stated the use and proposal is appropriate for this planned industrial park and should have no negative impacts on adjacent uses. There were no Protestants or other interested persons in

attendance.

Testimony and evidence offered on behalf of the Petitioner, including an explanation of Mr. Aizaz's business activities in the surrounding industrial areas, indicated the property is located on the north side of Dogwood Road, just west of Featherbed Lane between the Windsor Corporate Park (to the west) and Rutherford Business Park (to the east) in Woodlawn. *See* Petitioner's Exhibit 5 listing the many residential/commercial properties owned by Mr. Aizaz in this vicinity. The property contains a gross area of 0.48 acres (20,915 square feet), more or less, is zoned M.L.-I.M., and consists of two (2) adjacent parcels, each once improved with a single-family dwelling. Parcel 447 identified on Maryland Tax Map No. 87 is known as 6824 Dogwood Road and continues to be improved with a one-story structure; Parcel 308 on Map No. 87 is now vacant and is known as 6826 Dogwood Road. Mr. Aizaz purchased both lots in 2006 and intends to redevelop the site with a combination "convenience mart" that will front on Dogwood Road and an attached four (4) bay "service garage" to the rear. *See* building elevations submitted as Petitioner's Exhibit 3. Bernadette Moskunas, qualified as a land planner and zoning expert familiar with the special regulations set forth in B.C.Z.R. Sections 253.2.B and 307, testified as to the property's unique features and configuration and that she supervised the preparation of the site plan. The property is triangularly shaped and positioned between a storm water management facility on the west side that includes landscaping and a drainage and utility easement along the east side on property that is improved with Verizon's building at 7100 Ambassador Road in the Rutherford Business Center. She specifically confirmed that the site plan and proposed use comply with the requirements outlined in Section 307 and also opined that the proposed use meets the general special exception requirements of B.C.Z.R. Section 502.1 and the specific requirements of B.C.Z.R. Section 253.B for special exceptions in the

M.L.-I.M. zone. Mr. Aizaz, by way of a telephone conference, confirmed the proposed use, described the surrounding industrial park uses, and indicated that he felt a service garage was an appropriate use for the proposed site because it would accommodate the needs of the employees in the surrounding industrial parks. Mr. Reicke testified as to the need for a variance that is driven by the narrowness of the lot that has 134 feet of frontage on Dogwood Road and then narrows to 82 feet at the rear property line. Without a variance, he cannot construct an aesthetically pleasing structure on the property and yet meet required drive aisle widths, landscape strips and B.C.Z.R. Section 409 parking requirements. To corroborate this testimony, Petitioner's Exhibit 2 was prepared and submitted to better illustrate required and proposed setbacks as they relate to this property as well as the proposed parking spaces and driveway entrances into the property.

In this regard, Mr. Reicke testified that a number of business clients in the vicinity would bring their respective light trucks and cars to the facility for services. It was indicated that a variety of mechanical services will be performed on site, from oil changes to engine tune-ups and repairs; however, there is no body/fender work or painting to be done on the premises. It was indicated that the site has more than enough parking to accommodate the business.

As noted, variance relief is requested to legitimize the placement of the Convenience Mart and Service Garage building 20 feet from the eastern side property line. Ms. Moskunas indicated that by virtue of an existing drainage and utility easement that runs along the entire tract on Verizon Maryland, Inc.'s property, a 30-foot setback in actuality will exist. That is, the building will always maintain a 30 to 35-foot setback from any improvements on the eastern side. A side setback of 30 feet is required in the M.L.-I.M. zone.

Based on the testimony and evidence presented, I am persuaded to grant the special

exception and variance relief. In my judgment, the operation of the subject service garage/business can be conducted here without detriment to the health, safety and general welfare of the locale. In that the special exception runs with the land, I will enter certain restrictions on the service garage use to ensure that future occupants operate a service garage consistent with that proposed by Mr. Aizaz. Any different service garage operations or any expansion of the proposed use in this regard will require special hearing approval in the future.

As to the variance, I am persuaded that same should be granted. In this regard, the facts and circumstances presented justify relief pursuant to Section 307 of the B.C.Z.R.

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 13th day of March 2009, that the Petition for Special Exception to permit a service garage use on the subject property, pursuant to Section 253.2.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Sections 255 and 238.2 of the B.C.Z.R. to permit a side yard setback of 20 feet in lieu of the required 30 feet on the east side for a proposed building, in accordance with Petitioner's Exhibits 1 and 3, be and is hereby GRANTED subject to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioner may apply for his permit and be granted same upon receipt of this Order; however, the Petitioner is hereby made aware that proceeding at this time is at his 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 Petitioner shall be required to return, and be responsible for returning said property to its original condition.

2. A full landscape plan that displays visual enhancement to the subject site shall be submitted to the Landscape Architect for Baltimore County for review and approval. In this regard, it is to be noted that Avery Harden has already approved an 8-foot rather than 10-foot landscape screening area as sufficient on the west side of the property boundary.
3. All mechanical repairs must be performed inside of the service garage.
4. There shall be no body and fender work performed on the premises and there shall be no *outdoor* storage of damaged vehicles (including car parts) allowed.
5. The Petitioner and his assigns shall, on a daily basis, employ best efforts to use the five (5) parking spaces, as designated on Exhibit 1, for the parking of customer and disabled vehicles awaiting service garage repairs. No vehicle in a 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 taken in accordance with Section 32-3-401 of the Baltimore County Code.

WJW:dlw

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