

IN RE: PETITIONS FOR SPECIAL HEARING,	*	BEFORE THE
SPECIAL EXCEPTION AND VARIANCE		
SE Corner of Pleasant Hill Road and	*	ZONING COMMISSIONER
Fritsch Road		
(513 and 515 Pleasant Hill Road)	*	FOR
4 th Election District	*	BALTIMORE COUNTY
4 th Council District		
	*	
513 & 515 Pleasant Hill, LLC		
<i>Petitioner</i>	*	Case No. 2009-0289-SPHXA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception and Variance filed by Louis E. Fritz, Sr., managing member of 513 Pleasant Hill, LLC and 515 Pleasant Hill, LLC, the legal owners of the subject property, by and through their attorney, Kenneth E. Crocken, Esquire. The Petitioners request a special exception to permit a service garage for a tow truck operation in an M.L.-I.M. zone pursuant to Section 253.2.B.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). In addition, the Petitioners request special hearing relief to (1) permit continuance of existing residential uses on 513 and 515 Pleasant Hill Road, (2) confirm approval for the sale of incidental used vehicles as an accessory use in the operation of a used vehicle rental business and (3) permit a shared septic reserve area for the improvements on 513 and 515 Pleasant Hill Road. The Petitioners also request variance relief from the B.C.Z.R. as follows: to permit a side yard set back of six (6) feet in lieu of the required thirty (30) feet (Sections 255.1 [238.2]), to allow a disabled vehicle storage lot with stone paving in lieu of the required permanent all-weather materials (Section 409.8.A.2), a used car rental lot on stone paving in lieu of the required permanent all-weather materials (Section 409.8.A.2), and un-striped parking spaces in lieu of the required permanent

striping on areas not paved with permanent materials (Section 409.8.A.6). 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 requests were Louis Fritz, Sr., managing member of the property owners, Louis Fritz, Jr., his son, who runs the day-to-day business operations of Pikesville Auto Towing Inc., Charles R. Crocken, the Professional Engineer who prepared the site plan, and Kenneth E. Crocken, Esquire, attorney for Petitioners. The issues presented in this case generated significant public interest and a number of individuals from the area appeared and testified in opposition to a towing and vehicle storage yard operating in their neighborhood, namely, Arnold Jablon, Esquire and David H. Karceski, Esquire, of Venable LLP, representing the Pleasant Hill Development Associates II, LLC, Hannover Gardens Four, LLC, St. John Properties, Inc., and Stuart Foard with Merritt-DMI, LLC. Also appearing in opposition were unrepresented nearby neighbors, Charles E. Kellar, Lee Kellar, Christopher Schoster, Michael S. Schiller, and Jacqueline Geary.

The request for the special exception or conditional use drives the need for the other requests before this Commission. Thus, before any of the auxiliary issues are confronted and decided, the request for special exception must be addressed. Section 253.2.B.1 of the B.C.Z.R. permits through special exception "automotive-service stations, subject, further, to the provisions of Section 405." In order for approval of this special exception, in addition to meeting the requirements enumerated in Section 507.1, the Petitioners whose property is within the Industrial, Major district regulations must prove pursuant to Section 253.2.B that "such use will serve primarily the industrial uses and related activities in the surrounding industrial area."

Testimony and evidence offered revealed that the subject properties, 513-515 Pleasant Hill Road (“subject properties”), combine to form a rectangular-shaped parcel located on the northeast corner of the intersection of Pleasant Hill Road and Fritsch Road in the Owings Mills area of Baltimore County. The property contains collectively 1.37 acres, more or less, zoned M.L.-I.M. and has historically been used for residential purposes. The subject properties are surrounded to the north, south, and east by numerous residential properties. A complex comprised of Class-A office buildings occupies the area west of the subject property. Currently, the subject properties are used residentially, and are improved with single-family dwellings (one on each lot) with related accessory structures. *See* Protestant’s Exhibit 5. The subject properties were purchased by the Petitioners on a piecemeal basis in 2008.

Mr. Fritz testified that he has owned and operated, along with his son, a business known as Pikesville Auto Towing Inc., since 1966. The business mainly focuses on towing and storage operations. The business has operated at its current location, 346 Pleasant Hill Road, about 3 tenths of a mile away from the subject properties, since 2002¹. Pikesville Auto Towing Inc. is called by the Baltimore County Police (“Police-initiated towing”) to remove vehicles involved in automobile accidents, disabled causing traffic hazards, or abandoned and also by private businesses and citizens (“trespass towing”) to perform the same from private property. These cars are towed to the site and stored until reclaimed by the owners or removed to auto repair shops or salvage yards. The Petitioners testified that they did not know whether they have contracts with industries and businesses in the vicinity of Pleasant Hill Road. Mr. Fritz and Charles Crocken, the Professional Engineer who prepared the site plan, testified that the

¹ 346 Pleasant Hill Road was the subject of Special Exception Case No. 02-380-SPHXA subsequently granted by former Zoning Commissioner Lawrence E. Schmidt. This Order was submitted into evidence by Mr. Jablon, himself a former Zoning Commissioner, as Protestants’ Exhibit 1.

Petitioners desire to move their towing business to the subject properties due to the creation of adverse road conditions at the current site that hinder the successful operation of their business. The Petitioners indicated that the existing single-family dwellings on the subject properties would remain, and that the towing business would be placed behind 515 Pleasant Hill Road within a 0.45 acre area identified as a 'stone vehicle storage yard' on the site plan submitted as Petitioners' Exhibit 1.

As noted above, Section 253.2.B of the B.C.Z.R. permits a service garage for a towing operation in an M.L.-I.M. zone, *[so long as the business proposed will serve primarily the industrial uses and related activities in the surrounding industrial area]*. I cannot find, based on the testimony and evidence offered at the hearing before me, that the Petitioners have satisfied this requirement. Therefore, I must deny the special exception request. Since the special exception drives the need for the special hearing and variance requests, the denial of the requested special exception use renders the special hearing and variance requests moot.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 15th day of July 2009, that the Petition for Special Exception to permit a service garage for a tow truck operation in an M.L.-I.M. zone, pursuant to Section 253.2.B.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), be and is hereby DENIED.

IT IS FURTHER ORDERED that the Petition for Special Hearing relief to (1) permit continuance of existing residential uses on 513 and 515 Pleasant Hill Road, (2) confirm approval for the sale of incidental used vehicles as an accessory use in the operation of a used vehicle rental business and (3) permit a shared septic reserve area for 513 and 515 Pleasant Hill Road, be and is hereby dismissed as MOOT.

IT IS FURTHER ORDERED that the Petition for Variance relief from the B.C.Z.R. as follows: to permit a side yard set back of six (6) feet in lieu of the required thirty (30) feet (Sections 255.1 [238.2]), to allow a disabled vehicle storage lot with stone paving in lieu of the required permanent all-weather materials (Section 409.8.A.2), a used car rental lot on stone paving in lieu of the required permanent all-weather materials (Section 409.8.A.2), and un-striped parking spaces in lieu of the required permanent striping on areas not paved with permanent materials (Section 409.8.A.6), be and is hereby dismissed as MOOT.

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

WJW:esl

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