

<b>IN RE: PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
NE side of North Point Blvd.; 173 feet S		
of the c/l of St. Monica Drive	*	DEPUTY ZONING
15 <sup>th</sup> Election District		
7 <sup>th</sup> Councilmanic District	*	COMMISSIONER
(4014 North Point Blvd.)		
	*	FOR BALTIMORE COUNTY
<b>Charles H. Ahmer, Sr.</b>		
<i>Petitioner</i>	*	<b>CASE NO. 2010-0083-SPH</b>

\* \* \* \* \*

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by the legal property owner, Charles H. Ahmer, Sr. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve an amended site plan and order in Case No. 65-112-RXA for an addition to the used car sales building for services on Parcel 1. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the requested special hearing was Petitioner Charles H. Ahmer, Sr. and John B. Gontrum, Esquire, attorney for Petitioner. Also appearing in support of the requested relief was Rick Richardson with Richardson Engineering, LLC, the professional engineer who prepared the site plan. There were no Protestants or other interested persons in attendance at the public hearing.

Testimony and evidence offered revealed that the subject property is irregular-shaped and contains approximately 5.96 acres of land split zoned B.R.-A.S., M.L.-A.S., and M.L.-I.M. The property is located on the east side of North Point Boulevard near the intersection of St. Monica Drive in the Dundalk area of Baltimore County. The property has been used to maintain a car

sales business since the 1940's. Petitioner submitted an aerial photograph of the subject property that was marked and accepted into evidence as Petitioner's Exhibit 2. The photograph reveals that a rectangular piece of the property adjacent to North Point Boulevard, which is the portion of the property for which a special hearing is requested, contains approximately .55 acres of land zoned B.R.-A.S. A larger surrounding area to the east is zoned M.L.-A.S., and the eastern half of the property is zoned M.L.-I.M. The area to be considered for the special hearing lies solely within the area of the property zoned B.R.-A.S. The community surrounding the subject property is a mix of commercial and industrial uses. The area was essentially the gateway to Sparrows Point and there are several other car sales businesses and industrial buildings in the area surrounding the property. A significant portion of the northern half of the subject property is used as a parking area and the southeast section of the property is wooded and unimproved.

Further evidence and testimony revealed that the property is currently improved with an approximately 2,460 square foot office building located in the B.R.-A.S. area of the subject property. Petitioner is requesting relief in order to construct a one-story, approximately 780 square foot addition to the office building, which will house a two-bay car preparation and repair area. The business currently does not have a work area or garage with a lift, so Petitioner wishes to essentially update the equipment to repair cars that are for sale on the property.

As previously indicated, the property has been used to operate a car sales business since the 1940's. Petitioner's family has owned the property and used it for this purpose since 1970. Petitioner testified that it is currently difficult to repair cars with the existing infrastructure, and that an updated garage and repair area would greatly improve the family business. Three prior orders from the Zoning Commissioner, Board of Appeals, and Circuit Court were respectively marked and accepted into evidence as Petitioner's Exhibits 3A through 3C. The Orders reveal

that the use of the property for a used car business was approved in 1965, but Petitioners had also requested at that time to use the eastern half of the property ("Parcel 2") as a junkyard. While the used car sales business was approved, the request to maintain a junkyard on the larger portion of the property was denied in 1965. The instant Petition seeks solely to construct an addition on the existing office building in the B.R.-A.S. zoned section of the property ("Parcel 1") and does not include any attempt to maintain a junkyard as was denied in 1965.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated October 1, 2009, which indicates that the business has operated at the subject property for many years as a used car lot on Parcel 1. During that time, there have been no improvements on the site. Cars are parked in the right-of-way in the front of the site (though vehicles parked in the right-of-way are prohibited). The properties across the boulevard and along the road have been upgraded and have provided landscaping along the road frontage over the years. It appears that since the request for reclassification of the zoning and expansion of the business was denied, Parcel 2 is to be used for vehicle storage. The Planning Office also notes that the B.R. Zone permits a service garage with a front setback of 50 feet on a dual highway and storage and display of materials, vehicles and equipment not more than 15 feet in front of the required front building line. If Petitioner is granted relief and the business expands, the Planning Office requests that the site be landscaped along the road and the parking and display should be moved to allow a minimum 10 foot wide landscape buffer along the public road. Petitioner shall also move all cars out of the public right-of-way of North Point Boulevard. Comments were received from the Department of Environmental Protection and Resource Management (DEPRM) dated September 29, 2009

which indicates that development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Based on the testimony and evidence presented at the hearing, I am persuaded to grant the requested relief. The property has been used for many years as a used car sales business, and the uncontroverted testimony presented at the public hearing demonstrated that the request meets the requirements of Section 500.7 of the B.C.Z.R. and will have no negative effect on the surrounding locale. The proposed addition is in the unique position to improve both the aesthetic appearance of the property and to subtract from the impervious surface levels so as to address environmental concerns simultaneously. The request will result in pulling cars out of the right-of-way pursuant to the Office of Planning comment, and will not tend to overcrowd the large five-acre property. While the request will help to improve the existing business, it will not result in an increased flow of cars on the property and will have no negative effect on water, sewer or other public resources. In sum, the request will assist a long lasting business by updating its infrastructure while having no foreseeable negative impact on the surrounding locale. Accordingly, the requested relief will be granted.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by Petitioner, I find that Petitioner's request for special hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 1<sup>st</sup> day of December, 2009 that Petitioner's request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve an amended site plan and order in Case No. 65-112-RXA for an addition to the used car sales building for services on Parcel 1, be and is hereby **GRANTED**, subject to the following:

1. Petitioner may apply for permits and be granted same upon receipt of this Order; however, 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, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. In the event the business expands, the site shall be landscaped along the road and the parking and display shall be moved to allow a minimum 10 foot wide landscape buffer along the public road.
3. Petitioner shall move all cars out of the public right-of-way of North Point Boulevard.
4. Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

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

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SIGNED  
THOMAS H. BOSTWICK  
Deputy Zoning Commissioner  
for Baltimore County

THB:pz