

<b>IN RE: PETITIONS FOR SPECIAL HEARING,*</b>		BEFORE THE
<b>SPECIAL EXCEPTION &amp; VARIANCE</b>		
NW corner of Belair Road and Elm Avenue	*	DEPUTY ZONING
14 <sup>th</sup> Election District		
6 <sup>th</sup> Councilmanic District	*	COMMISSIONER
(7200 Belair Road)		
	*	FOR BALTIMORE COUNTY
<b>Estate of Charles E. Chlan</b>		
<i>Legal Owner</i>	*	
<b>Angela Amatruda and/or Assigns</b>		
Contract Purchaser	*	<b>Case No. 2010-0086-SPHXA</b>

\* \* \* \* \*

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before this Deputy Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception and Variance, filed by John C.M. Angelos, Personal Representative, for the Estate of Charles E. Chlan, the legal property owner, and Angela Amatruda and/or assigns, the contract purchaser. The Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) for approval of a modified parking plan and modified parking requirements for existing parking spaces and areas in accordance with the specific detail shown on the site plan filed with the Petitions, in lieu of the minimum requirements of the B.C.Z.R. In the alternative, in the event that the modified parking plan pursuant to the special hearing is not approved as requested, Variance relief is requested from Section 409.6.A of the B.C.Z.R. to permit the 8 existing parking spaces in lieu of 11 spaces required. The Special Exception is requested pursuant to Section 230.3 of the B.C.Z.R. to permit a mail order, slide processing laboratory on the subject property in the commercial zone. Petitioners also requested such additional relief as the nature of this case as presented at the time of the hearing on these Petitions may require within the spirit and intent of

the B.C.Z.R. The subject property and the requested relief are depicted 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, variance, and special exception requests was Angela Amatruda, the contract purchaser. Howard L. Alderman, Esquire represented Petitioners. Also appearing in support of the requested relief was Geoffrey C. Schultz, President of McKee & Associates, Inc. and the professional land surveyor who prepared the site plan. The qualifications of Mr. Schultz, not unknown to this Commissioner, were reiterated and he was accepted as an expert in matters of Baltimore County Zoning issues. John C.M. Angelos, Personal Representative for the Estate of Charles E. Chlan, owner of the subject property, executed the Petitions for hearing but waived his appearance at the hearing. A copy of Letters of Administration, dated November 29, 2007, appointing Mr. Angelos as the Personal Representative of Mr. Chlan's Estate was marked and accepted into evidence as Petitioners' Exhibit 2. Melissa Sadowski of the County's Department of Economic Development attended and expressed the support of that agency for the requested relief. There were no Protestants or other interested persons in attendance.

Testimony and evidence offered revealed that the subject property is located at the northwest corner of Belair Road and West Elm Avenue in the Overlea area of Baltimore County. The site is comprised of a single parcel of record, approximately 0.418 acre in size. There are three separate zoning classifications applicable to the site: the majority of the property is zoned Business Local (B.L.); there is approximately 0.003 acre zoned D.R.16, being a sliver along the northern property line, the majority of which is within the right of way of Belair Road; and approximately 0.017 acre of D.R.5.5, which runs parallel to the rear property line. The property

is trapezoidal in shape, approximately 69 feet wide in the front, 205 feet deep and approximately 80 feet wide along the rear property line.

A single, two-story frame building is located on the property, with an existing asphalt parking area located in the rear. The parking area has direct access only to West Elm Avenue and that entranceway is to be widened to 20 feet as required and shown more particularly on Petitioners' Exhibit 1. The existing building has a floor area ratio (FAR) of 0.22, just over seven percent of the 3.0 FAR allowed as of right. Testimony revealed that the existing building and all existing parking are located in the B.L. zoned portion of the property and, other than the required widening of the entranceway to minimum width requirements, there is no planned expansion of the existing improvements contemplated or otherwise reflected on Petitioners' Exhibit 1.

Prior to the death of Mr. Chlan, the principal use of the property and improvements was a law office with an occasional, accessory and evening use of a small area of the second floor for meetings of the local chapter of the Sons of Italy. The use of the existing 3,988 square feet of improvements for general law office use would require 14 parking spaces pursuant to Section 409 of the B.C.Z.R.

Ms. Amatruda, the contract purchaser, is the owner of AML Laboratories ("AML"), which has been located on Ridge Road in the eastern area of the County, directly adjacent to existing residences and the Evangel Church, for many years. In 1989, Ms. Amatruda began her work in the histology field at the Johns Hopkins Hospital and was elevated to the histology supervisor of the Johns Hopkins University Reference Histology Lab. Following that position, Ms. Amatruda began her private histology practice and she started AML.

Testimony revealed that AML is, effectively, a slide processing service facility. AML receives non-hazardous tissue samples in formaldehyde (i.e. dead tissue) via regular delivery

from the United States Postal Service or overnight carrier, much like residential deliveries made throughout the County. The technicians at AML then transfer the tissue to microscopic slides, which are then returned via regular mail or overnight carrier to the customer for analysis/diagnosis. AML does no diagnostic work nor does it perform any clinical functions. AML produces slides for customers using tissue samples received from customers, all of which are then returned to the customer.

AML has four full-time employees and one part-time employee, and operates from 6:00 a.m. until 4:00 p.m., Monday through Friday. Annual visits from one or two customers are the only non-employee personnel that visit the property other than mail or delivery personnel. Ms. Amatruda aptly described her business as a high quality, low impact slide processing service bureau. Ms. Amatruda described the community contacts that were made prior to the hearing on the Petitions and the favorable reaction received from community leaders and residents.

The proffered testimony of Mr. Schultz revealed that the B.C.Z.R. technically define the AML slide processing service bureau as a laboratory. Section 230.3 of the B.C.Z.R. provides that a laboratory use is permitted in the B.L. Zone as a Special Exception use to be evaluated pursuant Section 502.1 of the B.C.Z.R. As shown on Petitioners' Exhibit 1, the laboratory use will occupy 3,329 square feet of the existing improvements with the remaining 659 square feet used for general offices. Applying the requirements of Section 409 of the B.C.Z.R., the office use proposed requires 2.17 parking spaces and the laboratory use requires 8.32 parking spaces for a total of 11 required spaces for the proposed uses. Although the prior law office use required 14 parking spaces, the existing parking area supports a total of 8 parking spaces meeting the design standards of the B.C.Z.R.

Prior to the commencement of the hearing on the Petitions, this Office received a letter dated November 4, 2009 from Peter Max Zimmerman, People's Counsel for Baltimore County. The Office of People's Counsel had requested Stephen E. Weber, Chief of Baltimore County Traffic Engineering, to review the Petitions and site plan submitted in this case. Attached to Mr. Zimmerman's letter was a copy of email correspondence, dated October 20, 2009, from Mr. Weber to the People's Counsel Office, indicating that Mr. Weber found "no traffic engineering issues with the proposed site plan, nor have we had any past issues with this site." A copy of Mr. Zimmerman's letter and attachment were marked and accepted into evidence as Petitioners' Exhibit 3.

The Zoning Advisory Committee (ZAC) comments were received and are contained within the case file. Comments received from the Office of Planning dated October 13, 2009 indicate that the existing parking area is adequately landscaped and screened from adjacent residences, which are located to the rear of the subject property. The Office of Planning has no objection to approval of the proposed uses or the modified parking plan.

The Petition for Special Exception requests approval of a laboratory use on the subject property pursuant to Section 230.3 of the B.C.Z.R. The testimony provided showed that the processing of slides will be conducted completely within the existing building. The employees arrive early in the morning and leave generally before the evening rush hour. Customer visitation is less than minimal, amounting to one or two visits to the property per year and deliveries are made in the same manner as residential deliveries. The testimony proffered for Mr. Schultz was that he is very familiar with the subject property and the area in which it is located. The other, existing commercial and service uses in the area of the property, on both sides of Belair Road were summarized.

In Mr. Schultz's expert opinion, this low impact use at this location will not have any adverse effects above and beyond those inherently associated with such special exception uses irrespective of where they are located in the same zone. Nor, based on that testimony, would the proposed use create congestion on the road system. Mr. Weber's evaluation supports that analysis. The use described will not create any dangerous situation nor interfere with provisions for public facilities. As described, the proposed uses are less intensive than the prior law office use conducted on the property as evidenced by the lesser number of required parking spaces. Based on the evidence presented, I find that the laboratory use can be conducted at this location without detriment to the community, therefore the requested Special Exception relief requested will be approved.

With respect to the required parking, the proffered testimony is that all existing parking will be utilized and that because of the location of existing improvements and the grade of the front yard of the property, there is no additional area to increase available parking. Petitioners have filed a Petition for Special Hearing requesting approval pursuant to Sections 409.12B and 409.8.B.1 of the B.C.Z.R. of a modified parking plan and modified parking requirements for the proposed uses in accordance with the specific detail shown on Petitioners' Exhibit 1. Alternatively, if the Special Hearing relief is denied, Petitioners have filed a Petition for Variance to Section 409.6.A of the B.C.Z.R. to permit a total of 8 parking spaces in lieu of the 11 spaces required for the proposed uses.

The uncontradicted testimony presented is that none of the Petitioners had any role or part in the development of the subject property with the existing building and parking when it was established decades ago. The only 'open' area on the subject property is in the front yard between the building and Belair Road and that area is elevated several feet above the existing

grade of Belair Road. Certainly, it is more desirable to have all parking located behind the existing building than in the front yard which would be inconsistent with the other, existing uses in the immediate area. I find, given that the building and the parking area already exist, it would present an undue burden to require Petitioners to provide additional parking. The testimony and evidence presented is that this property has been used for many years as a general office without complaint or detriment to the community. I will, therefore, approve the modified parking plan and parking requirements as shown on Petitioners' Exhibit 1. With the granting of that approval, Petitioners' alternative Variance relief is rendered moot.

Upon due consideration of the testimony and evidence offered, I am persuaded to grant the special exception relief. The proposed use is appropriate in scale and intensity for this commercially zoned, corner property. The proposed use appears innocuous compared to that of a busy law office. For the reasons noted previously, I am also persuaded to grant the special hearing relief regarding the existing parking available. The improvements on the property have existed for many years and, as noted by the Office of Planning, are landscaped and screened from the residences to the rear of the property.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and after considering the testimony and evidence offered, I find that Petitioners' requests for special hearing and special exception should be granted. Petitioners' request for variance will be dismissed as moot.

THEREFORE, IT IS ORDERED this 7<sup>th</sup> day of December, 2009, by the Deputy Zoning Commissioner, that Petitioners' request for Special Hearing relief pursuant to Section 500.7 of the B.C.Z.R. for approval of a modified parking plan and modified parking requirements for existing parking spaces and areas in accordance with the specific detail shown on the site plan

filed with the Petitions, in lieu of the minimum requirements of the B.C.Z.R., be and is hereby GRANTED; and

IT IS FURTHER ORDERED, with the granting of the Special Hearing relief requested, Petitioners' alternative request for Variance from Section 409.6.A of the B.C.Z.R. to permit the 8 existing parking spaces in lieu of 11 spaces required be and is hereby DISMISSED as moot; and

IT IS FURTHER ORDERED that Petitioners' request for Special Exception pursuant to Section 230.3 of the B.C.Z.R. to permit a mail order, slide processing laboratory on the subject property in the commercial zone be and is hereby GRANTED.

The relief granted herein shall be subject to the following conditions:

1. Petitioner may apply for its permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its 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 will be required to return, and be responsible for returning, said property to its original condition.
2. All proposed signage shall be compatible with the character and scale of the community and shall be non-illuminated.

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