

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
NE/S Reisterstown Road (MD Rte. 140),	*	ZONING COMMISSIONER
1,740' NW Greenspring Valley Road		
<b>(9727 Reisterstown Road)</b>	*	OF
3 <sup>rd</sup> Election District	*	BALTIMORE COUNTY
2 <sup>nd</sup> Council District		
	*	
R & H Motor Cars, Ltd.		
Petitioner	*	<b>Case No. 2010-0113-SPHA</b>

\* \* \* \* \*

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by R & H Motor Cars, Ltd., by Robert Russel, President, through their attorney, Deborah C. Dopkin, Esquire. The Petitioner requests a special hearing to modify the site plan approved in Case No. 99-213-A and affirm the relief granted therein. Variance relief is requested from Sections 235.1 and 303.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front yard setback of 45 feet in lieu of the required 220 feet, and from B.C.Z.R. Sections 301.1 and 303.2 to approve an open projection with a setback of 38 feet in lieu of the permitted 165 feet. The subject property and requested relief are more particularly described on the site plan(s) submitted, which were accepted into evidence and marked as Petitioner’s Exhibits 1A and 1B, respectively.<sup>1</sup>

Appearing at the requisite public hearing in support of the requests were David Russel, on behalf of R & H Motor Cars, Ltd., the property owner; Kenneth J. Colbert, P.E., of Colbert, Matz, Rosenfelt, Inc., the consulting firm who prepared the site plans, and Petitioner’s attorney,

---

<sup>1</sup> Exhibit 1A – the variance site plan and Exhibit 1B – the plan accompanying the petition for special hearing were amended prior to the hearing by redrafting *General Note 12* to state: *No modifications are proposed to the existing freestanding sign. All building signage will be within the limits of the relief granted in Case No. 99-213-A.*

Deborah C. Dopkin, Esquire.

Testimony and evidence offered establishes that the specific need for the variance is generated by the uniqueness of the property. The uncontroverted exhibits presented revealed that the subject property is an irregularly shaped parcel consisting of approximately 2.903 acres, zoned B.M., located on the east side of Reisterstown Road, not far from its intersection with Greenspring Valley Road, at the northern end of Owings Mills. The property is the site of the R & H Motors Mercedes-Benz Dealership, which has existed at this location for over 33 years. Specifically, the lot has been improved with a two-story masonry showroom/office building situated on the front portion of the site and a large one-story service building with 21 service bays positioned behind the showroom. These improvements and a vehicle prep building located 349 feet off of Reisterstown Road at the far northeastern corner of dealership property adjacent to the Garrison Forest School complex, ball fields, stables and riding facilities are well illustrated on Petitioner's aerial photograph exhibit (Exhibit 2). The subject petition concerns the setbacks for the two-story showroom and office building located on the front portion of the site. The building is diamond-shaped with the front point of the diamond 45 feet from Reisterstown Road. R & H Motor Cars, in an effort to satisfy requirements imposed by Mercedes-Benz, desires to modify the current showroom building to conform with the new business model.

To maintain its valued connection between the Mercedes-Benz manufacturer and the Petitioner, the architect, Lessard Group, Inc., has designed a 500 square foot addition that will present a new image by filling in the existing 5-foot space between the present showroom windows and the masonry overhang surrounding the diamond shaped building and visible to traffic traveling northbound and southbound on Reisterstown Road. A new 5-foot overhang will be added as an amenity covering the walkway and entrance doorways. *The building footprint is not being expanded nor is it coming closer to Reisterstown Road* but glass is being moved out –

to where the building overhang presently exists. A clearer understanding can be easily achieved by reviewing Petitioner's Exhibit 4 (existing conditions – photographs) and contrast those photographs with the architectural renderings submitted as Petitioner's 5A (north view) and 5B (south view).

At first glance, one may find this to be a difficult request to grant. The Petitioner's proposed variance is some 4 times greater than the regulations allow.<sup>2</sup> As illustrated, however, on the aerial photo setback exhibit (Petitioner's Exhibit 6), many, if not all, of the existing commercial buildings as shown and identified on both sides of Reisterstown Road are setback as close as 9 feet to 50 feet. It is not unusual in this corridor to have buildings that are setback significantly less than what would be required of this Petitioner, for the renovations proposed, if the regulations were to be strictly imposed. The variances in this case are driven due to the adjoining commercial uses having changed over the years, and the buildings that had previously existed at the time the Petitioner's showroom/office building was built, have been subsequently removed. By way of example, the Golden Plough Restaurant located just north of the site was built with a 30-foot setback from Reisterstown Road. *See* Petitioner's Exhibit 7 – a Petition for Reclassification with accompanying site plan filed by Golden Plough in 1968. As noted above, when that building was razed it created a huge setback of 349 feet. Thus, the requested variances are necessary.

Based upon the testimony and evidence presented, I am persuaded to grant the relief. It is clear that the use proposed is appropriate for this site and consistent with the area. The requested relief will allow modernization of a building that has existed at this location for over three

---

<sup>2</sup> B.C.Z.R. Section 303.2 pursuant to Section 235.1 of the regulations requires front yard averaging in the B.M. zone. As shown on Exhibit 1A, a 220-foot setback average is derived from the 349 feet from Reisterstown Road to the vehicle prep building (north side) and 91 feet from Reisterstown Road to the existing automotive sales building (south side).  $349' + 91' \div 2 = 220'$ . As earlier noted, both of these buildings are owned by and used by the Petitioner but positioned on different parcels.

decades. The variances are warranted in view of the unique configuration of the lot and dynamic changes brought about by the adjoining uses and removal of those buildings that had previously existed on those properties. There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency. Thus, it is clear that the requested relief can be granted without detrimental impact to the health, safety, or general welfare of the surrounding locale. I specifically find that the Petitioner has satisfied the requirements of Section 502.1 of the B.C.Z.R. as it relates to special hearing relief and Section 307 as it relates to the requested zoning variances. To do otherwise would cause an exceptional hardship to R & H Motor Cars that has operated at this site for many years without objection.

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.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 2<sup>nd</sup> day of December 2009 that the Petition for Special Hearing seeking approval, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to modify the site plan previously approved in Case No. 99-213-A and re-affirm the relief granted therein, in accordance with Petitioner's Exhibit 1B, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Variance requesting relief from Sections 235.1 and 303.2 of the B.C.Z.R. to permit a front yard setback of 45 feet in lieu of the required 220 feet, and from B.C.Z.R. Sections 301.1 and 303.2 to approve an open projection with a setback of 38 feet in lieu of the permitted 165 feet, in accordance with Petitioner's Exhibits 1A, be and is hereby GRANTED, subject to the following conditions:

1. The Petitioner shall provide an updated landscape plan to the Office of Planning and/or the County's landscape architect, Avery Harden, for review and approval prior to the issuance of a building permit.
2. The 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 the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

3. No display of vehicles may be located within the public right-of-way or landscape setback areas.
4. When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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

WJW:dlw