

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
E side of Rolling Road; 1100 feet N of		
the c/l of Tudsbury Road	*	DEPUTY ZONING
2 nd Election District		
4 th Councilmanic District	*	COMMISSIONER
(2701 Rolling Road)		
	*	FOR BALTIMORE COUNTY
Woodland Services, LLC		
<i>Legal Owner</i>	*	CASE NO. 2010-0218-SPH

* * * * *

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 Sajid Choudhry, Member, on behalf of the legal property owner, Woodland Services, LLC. Petitioner requests Special Hearing relief in accordance with Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows:

- To approve an Amended Plan and the Special Exception previously approved in Case No. 07-245-X to permit construction of a minor vehicle service facility as an ancillary use in accordance with Section 405.4.D.1 of the B.C.Z.R.; and
- To approve a modified parking plan in accordance with Section 409.12 to accept/permit the use of stacking spaces for a quick-lube auto service facility in lieu of traditional parking spaces as required in Section 405.4.A.3.d(3) of the B.C.Z.R.; and
- To approve any other and further relief as the Zoning Commisioner may deem appropriate.

The subject property and requested relief are more fully described on the revised site plan drawing which was marked and accepted into evidence as Petitioner’s Exhibit 1.¹

Appearing at the requisite public hearing in support of the requested special hearing relief were Sajid Choudhry and Iftikhar Ahman on behalf of Petitioner Woodland Services LLC, and

¹ The site plan submitted at the hearing was revised from the original plan filed with the Petition. As indicated in the “revisions” section, the revised plan was changed slightly in that the configuration of the proposed service facility building was altered and the size increased nominally from 1,568 square feet to 1,600 square feet. Also, the bypass lane around the car wash was altered to a more gradual curve rather than the sharp turn depicted in the original plan. The changes are not material and otherwise, the crux of the plan is the same.

Francis X. Borgerding, Esquire, attorney for Petitioner. Also appearing in support of the requested relief was Kenneth J. Colbert with Colbert Matz Rosenfelt, Inc., the professional engineer who prepared the site plan. There were no Protestants or other interested citizens in attendance.

Initially, Mr. Borgerding requested a minor clarification with regard to the wording of the Petition vis-à-vis the wording of the sign posting and advertising notice. The first prayer for relief in the Petition requested relief under Section 405.4.D.1 of the B.C.Z.R.; however, the sign posting and the advertising notice listed Section 405.4.A.3.d(3) as the applicable section. Mr. Borgerding indicated that the numeric information contained in the Petition was the correct section and not the sign posting and advertising notice. The undersigned noted that the written wording of the Petition and the wording on the sign posting and advertising notice were the same, and acknowledged Mr. Borgerding's clarification on the record. In my judgment, no amendment was necessary because the plain wording on the Petition and the notices were identical.

The case was presented by way of proffered testimony from Mr. Borgerding and Mr. Colbert. Mr. Colbert is known to this Commission as a professional engineer and for his familiarity with the Zoning Regulations and his expertise in engineering, site development, and interpretation of the B.C.Z.R. He was offered and accepted as an expert in those fields. Testimony and evidence offered revealed that the subject property is irregular in shape and consists of approximately 1.7 acres, more or less, zoned M.L.-I.M. The property is located on the east side of Rolling Road, just south of Windsor Boulevard and west of Interstate 695 (Baltimore Beltway), in the Windsor Mill area of Baltimore County. As shown on the revised site plan, the property is improved with an existing fuel service station with convenience store, a

carry-out restaurant, and a roll-over car wash. The fuel service consists of 12 pumps with an island canopy; the convenience store (3,750 square feet) and carry-out restaurant (1,000 square feet) are located in the existing one-story building; and the car wash is a stand-alone structure located at the northeast end of the site.

By way of background, Petitioner acquired the property in 2002 and was granted a special exception for a fuel service station in combination with a convenience store and carry-out restaurant greater than 1,500 square feet in Case No. 02-016-X, and began operating as such at that time. Stemming from subsequent litigation, in 2006 Petitioner requested and was granted special hearing relief that confirmed the validity of the previous special exception relief in Case No. 06-583-SPH. Thereafter, in 2007 Petitioner was granted a special exception for a roll-over car wash as a use in combination in Case No. 07-245-X. At this juncture, Petitioner desires to further improve and expand the business at the site with a “quick lube” automotive service operation as an ancillary use to the other existing uses. In order to do so, Petitioner proposes a 1,600 square foot service building with three service bays, which would be situated between the existing convenience store/carry-out restaurant building and the car wash building.

In support of the requested relief, Mr. Colbert indicated that the property and surrounding area to the east of Rolling Road is mostly commercial and industrial. On the west side of Rolling Road is densely populated residential townhomes and apartments zoned D.R.16. The surrounding area is shown on an aerial photograph that was marked and accepted into evidence as Petitioner’s Exhibit 3. He also indicated that there is a need for this type of “quick lube” service in the area. An inventory of the businesses in the area revealed that along Rolling Road from Security Boulevard south to Liberty Road, there was only one full service automotive garage, and there were no “speedy oil change” or “quick lube” type businesses along that

corridor. This was illustrated on the area exhibit that was marked and accepted into evidence as Petitioner's Exhibit 4.

As to the property itself, Mr. Colbert submitted a photo exhibit that was marked and accepted into evidence as Petitioner's Exhibit 2. As mentioned earlier, the property is irregular in shape and fronts along Rolling Road. There is also an existing private road that runs along the southern end of the property. The photographs on the photo exhibit show an organized, clean, and attractively landscaped property, with well maintained buildings. It is also noteworthy that the existing improvements fit well on the property; that is, the property is not congested and the improvements do not overcrowd the land. In short, this 1.7 acre site appears well suited for its present use. In that vein, Mr. Colbert indicated that in his opinion, the proposed building for use as a quick lube service would also fit in well with the existing improvements.

Presently, the area between the existing convenience store/carry-out and car wash buildings is utilized as a drive aisle and parking for air/vacuum machines. Petitioner proposes to place the quick lube building in that area and re-locate the drive aisle/bypass lane around the car wash. In this way, as stated by Mr. Colbert, the new building would be contained within the existing improvements and would have little, if any, impact on the primary fuel service, convenience store/carry-out, and car wash uses. It would truly be subordinate and complimentary to these uses. Mr. Colbert also offered his opinion that the proposed quick lube facility would have no detrimental impacts on the relevant criteria set forth in Section 502.1 of the B.C.Z.R. It would not be detrimental to the health, safety, or general welfare of the locale, nor would it create congestion on roads or streets, create a potential hazard from fire or other danger, overcrowd the land, or interfere with adequate provisions for public services. It would also not be inconsistent with the property's zoning classification, nor with the impermeable

surface and vegetative retention provisions of the B.C.Z.R., and the environmental and natural resources.

The photo exhibit and the aerial photograph also show that the subject property is surrounded on three sides (except for its frontage on Rolling Road) by a larger tract owned by Rolling Road LLC. According to tax records, this 10.38 acre property was acquired by Rolling Road LLC from Baltimore Gas & Electric in 1999. It was then developed in 2001 and two large business park buildings were constructed, one of which can be seen in the background of several of the photographs on the photo exhibit. Both buildings can also be seen on the aerial photograph. Access to the subject property is via the existing private road to the south that is part of the property, and via a common use easement at the north end of the property.

Mr. Colbert also discussed the parking situation and the desire to modify the existing parking plan for the use of stacking spaces for the quick lube service facility in lieu of traditional parking spaces. Section 405.4.A.3.d(3) of the B.C.Z.R. requires that three parking spaces per service bay be provided on the site of any fuel service station, not counting service spaces in the bays. As shown on the revised site plan, Petitioner proposes four single lane stacking spaces and two additional stacking spaces for each of the three service bays for a total of 10 spaces. Petitioner proposes this layout in lieu of the dedicated parking spaces required for each bay and the separate stacking spaces. In support of this modification, Mr. Colbert indicated that sufficient parking currently exists on the site. As the revised site plan depicts, there is abundant parking in the areas fronting Rolling Road, directly in front of the convenience store/carry-out building, and further south on the property in the southeast corner. With the proposed quick lube facility, parking will be altered only slightly. Several spaces that were located adjacent to the car wash would be moved (along with the air/vacuum machines) to the northern end of the site. In

Mr. Colbert's expert opinion, the requested parking modification would have no measurable impact on the site and its uses. It is anticipated that customers wishing to utilize the quick lube service, as with the car wash, would have enough stacking spaces for there to be adequate circulation and flow. Moreover, in the unlikely event there were too many vehicles for the planned stacking spaces, there is sufficient overflow parking in the little used parking area located at the southeast corner as mentioned above. Mr. Colbert also indicated that in this case, one has the benefit of hindsight over the past eight years to evaluate the parking situation, and even with the addition of the roll-over car wash, there has been no negative impact to the property or the surrounding area. In his opinion, the quick lube service would have a similarly immeasurable effect. It is not anticipated that the quick lube would be a destination service, but would be a secondary service that most customers would utilize either before or after purchasing fuel and/or food. In addition, it is expected that the parking situation would be self leveling, in the sense that customers would forgo the car wash or quick lube if either the wait is too long or if there is not available parking (which Mr. Colbert indicated is very unlikely).

Also providing testimony in support of the requested relief was Sajid Choudhry. Mr. Choudhry indicated that since the present business began in 2002, it has operated very well on the property. The location of the improvements is well balanced on the site and circulation and flow is very efficient. The property also has very good curb appeal from Rolling Road. Mr. Choudhry indicated that he and his partner, Mr. Ahmad, are very meticulous about the upkeep of the property and in particular the landscaping. It is their desire to incorporate the quick lube facility into the overall business as an added benefit to the community. Obviously, they believe it will enhance their business, but it will also benefit their customers because there is currently no such facility in the area. The inclusion of this facility would save their customers time and

money and be something of a “one stop shop” for their gas, food, car wash, and oil change needs, without having to make a special trip to the dealership.

The Zoning Advisory Committee (ZAC) comments were received and are contained within the case file. The Fire Marshal’s Office comment dated March 8, 2010 indicates that the site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code prior to occupancy or beginning of operation.

Considering all the testimony and the evidence presented, I am persuaded to grant the special hearing request to amend the previous plan and special exception, and to approve the modified parking plan. The evidence indicates that the proposed quick lube building will be contained within the subject site and will have very little effect on the primary fuel service, convenience store/carry-out, and car wash uses. There is also ample evidence that the site can handle the addition of the quick lube service facility without overcrowding the land or disrupting the other uses, or the surrounding properties, and would not have a detrimental effect on the special exception criteria set forth in Section 502.1 of the B.C.Z.R. As to the modified parking plan, I agree with Mr. Colbert’s assessment that the absence of dedicated parking spaces for the quick lube facility would have no measurable impact on the site and its uses. It is reasonable that customers wishing to utilize the quick lube service would have enough stacking spaces (10 spaces) for there to be adequate circulation and flow. Hence, in my view Petitioner’s plans are appropriate and within the spirit and intent of the Zoning Regulations.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and after considering the testimony and evidence offered, 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 7th day of May, 2010 that Petitioner's request for Special Hearing relief filed in accordance with Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) as follows:

- To approve an Amended Plan and the Special Exception previously approved in Case No. 07-245-X to permit construction of a minor vehicle service facility as an ancillary use in accordance with Section 405.4.D.1 of the B.C.Z.R.; and
- To approve a modified parking plan in accordance with Section 409.12 to accept/permit the use of stacking spaces for a quick-lube auto service facility in lieu of traditional parking spaces as required in Section 405.4.A.3.d(3) of the B.C.Z.R.,

be and are hereby **GRANTED**, subject to the following:

1. Petitioner may apply for its permits 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 would be required to return, and be responsible for returning, said property to its original condition.
2. The site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code prior to occupancy or beginning of operation.

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

SIGNED
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz