

IN RE: PETITIONS FOR SPECIAL EXCEPTION	*	BEFORE THE
AND VARIANCE		
NE corner of North Point Road and	*	DEPUTY ZONING
New Battle Grove Road		
15 th Election District	*	COMMISSIONER
7 th Councilmanic District		
(4054 North Point Road)	*	FOR BALTIMORE COUNTY
North Point Rentals, LLC	*	
<i>Legal Owner</i>		
NAC Automotive and Truck Specialists, Inc.		
<i>Contract Purchaser</i>	*	Case No. 2011-0171-XA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception and Variance filed for property located at 4054 North Point Road in the Dundalk area of Baltimore County. The subject property is zoned M.L.-I.M. The Petition was filed by the legal owners of the subject property, North Point Rentals, LLC and the Lessee, NAC Automotive and Truck Specialists, Inc. The Special Exception is for a service garage pursuant to Section 253.2.B.3 of the Baltimore County Zoning Regulations ("B.C.Z.R."). The Variance request is as follows:

- From Section 255.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a side yard setback of 2 feet and rear yard setback of 1 foot (between buildings) in lieu of the required 30 feet; and
- From Section 255.1 of the B.C.Z.R. to permit a rear yard setback of 25 feet for the building to become the service garage in lieu of the required 30 feet from existing building to the property line; and

- From Section 255.1 of the B.C.Z.R. to permit a rear yard setback of 29 feet for the warehouse building in lieu of the required 30 feet from the existing building to the property line; and
- From Section 409.8.A.4 of the B.C.Z.R. to permit a setback of 5 feet from the street right-of-way to the existing parking spaces in lieu of the required 10 feet.

The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the hearing on behalf of the request were Nicholas Lukanich and Craig Miskimon representing the owners and operators of the business as well as Rick Richardson of Richardson Engineering, LLC, the professional engineer who prepared the site plan for the property. The Petitioners were represented by Michael Moran, Esquire. There were no Protestants or interested persons in attendance.

Testimony and evidence offered at the hearing revealed that the subject property consists of 2.9 acres of which 0.549 acres has been set aside for this special exception request. NAC Automotive and Truck Specialists, Inc., proposes to operate their service garage activity within the existing one story 5,075 square feet industrial building located on the southern portion of the overall property. The remainder of the 2.9 acre parcel of property will continue to be rented by the landlord to Titan Industries, a commercial painting contractor. Titan Industries occupies the 16,138 square feet warehouse building that is also situated on this property. In order to proceed with the location of the service garage at this property the special exception request is necessary.

It is clear the Baltimore County Zoning Regulations permits the Petitioners' use in a ML-IM zone by special exception. It is equally clear that the proposed use is not detrimental to the

primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which shows that the use meets the prescribed standards and requirements set forth in Section 502.1 of the Baltimore County Zoning Regulations. The Petitioner has shown that the use is conducted without real detriment to the neighborhood and does not adversely affect the public interest. The facts and circumstances do not show that the use at this particular location described by Petitioners' Exhibit No. 1 has any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. *Schultz v. Pritts*, 432 A.2d 1319 (1981).

The use is not detrimental to the health, safety, or general welfare of the locality, nor tends to create congestion in roads, streets, or alleys therein, nor is it inconsistent with the purposes of the property's zoning classification, nor in any other way inconsistent with the spirit and intent of the B.C.Z.R.

In addition to the special exception relief requested, the Petitioner is also requesting variance relief for the existing one story building within which he proposes to located his service garage use. There is also a variance request for the existing warehouse building that is situated on the larger parcel of property.

In regard to the variance requests, based on the testimony and evidence, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance requests. Therefore I find the property unique in a zoning sense.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. It has been established that special circumstances or conditions exist that are peculiar to the property which is the subject of this

request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R.

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' Special Exception request and the Variance requests should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 11th day of January, 2011 that Petitioners' request for Special Exception for a service garage pursuant to Section 253.2.B.3 of the Baltimore County Zoning Regulations ("B.C.Z.R.") be and is hereby **GRANTED**; and

IT IS FURTHER ORDERED that Petitioners' Variance request:

- From Section 255.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a side yard setback of 2 feet and rear yard setback of 1 foot (between buildings) in lieu of the required 30 feet; and
- From Section 255.1 of the B.C.Z.R. to permit a rear yard setback of 25 feet for the building to become the service garage in lieu of the required 30 feet from existing building to the property line; and
- From Section 255.1 of the B.C.Z.R. to permit a rear yard setback of 29 feet for the warehouse building in lieu of the required 30 feet from the existing building to the property line; and
- From Section 409.8.A.4 of the B.C.Z.R. to permit a setback of 5 feet from the street right-of-way to the existing parking spaces in lieu of the required 10 feet.

be and are hereby **GRANTED**.

Based upon the testimony and evidence presented at the hearing and the lack of opposition thereto, I shall grant the special exception for a service garage use pursuant to Section 253.2.B.3 as well as the variance relief requested herein. The granting of the special exception and variance relief shall be conditioned upon the following restrictions:

1. The Petitioners and owner of the property shall be required to comply with the comment dated December 22, 2010 issued by the Department of Environmental Protection and Resource Management (DEPRM) indicating that the applicant shall be required to comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code). Development of this property must also comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code). A copy of this comment has been attached hereto and is made a part hereof.
2. Compliance with the Zoning Advisory Committee (ZAC) comment submitted by the Office of Planning dated December 9, 2010. A copy of this comment has been attached hereto and is made a part hereof. The issues raised by the Office of Planning shall be resolved prior to the service garage use commencing on the property.

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

SIGNED
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

Attachment

TMK/pz