

IN RE: PETITIONS FOR SPECIAL HEARING,	*	BEFORE THE
SPECIAL EXCEPTION & VARIANCE		
NW/ side of Belair Road, 25' W of c/line of	*	OFFICE OF
Glen Park Road		
11 th Election District	*	ADMINISTRATIVE HEARINGS
5 th Councilmanic District		
(9620-9646 Belair Road)	*	FOR BALTIMORE COUNTY
Northview Associates, LLP	*	CASE NO. 2012-0014-SPHXA
Petitioners		

* * * * *

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings for Baltimore County pursuant to Petitions for Special Hearing, Special Exception and Variance for the property located at 9620-9646 Belair Road. The Petitions were filed by David H. Karceski, Esquire with Venable, LLP, on behalf of Gene Parker, President, Northview Associates, LLP. Special Hearing relief is requested to amend the original special exception for a fuel service station granted in Case No. 68-70-RX, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”). Petitioner is also requesting Special Exception relief to permit a fuel service station on an individual site and a convenience store with a sales area larger than 1,500 square feet and a carry-out restaurant as uses in combination with the proposed fuel service station pursuant to Sections 405.2.B.1, 405.4.E.1 and 405.4.E.10 of the B.C.Z.R. In addition, Petitioner is requesting Variance relief from Section 405.4.A.2.b of the B.C.Z.R. to allow a minimum landscape transition area width of zero (0) feet in a side yard and rear yard abutting non-residentially zoned land in lieu of the required 6 feet and 3 feet in a side yard and 8 feet in the front yard abutting a public right-of-way in lieu of the required 10 feet; and from Section 405.4.A.3.c of the B.C.Z.R. to allow one stacking space for each pump island side where a convenience store is located on the same lot.

The subject property and requested relief are more particularly shown on the Plat to Accompany the Petition for Special Hearing, received into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Applicant were Joshua Sharon, a professional engineer with Morris & Ritchie Associates, Inc., who prepared the site plans of the property, and David H. Karceski, Esquire, representing the Applicant. Appearing in opposition to the request were

Zoning Advisory Committee (ZAC) comments were received from the Office of Planning, dated August 12, 2011, and the Department of Environmental Protection and Sustainability (DEPS), dated August 1, 2011. The Office of Planning recommends the following:

"The Office of Planning supports the petitioner's Special Hearing and Special Exception requests.

The Office of Planning supports the 0 foot landscape buffer for the side and rear yards as the site is adjacent to a large parking lot. Furthermore, the Office of Planning supports the request to permit one stacking space for each pump, as there is a cut through lane for cars between each pump station.

The Office of Planning **does not** support the request to allow a reduced landscaping area along the right-of-way. The petitioner shall provide a much needed area for trees. Provide a landscape buffer that is consistent with landscape buffers of adjacent developments along Belair Road.

Additionally:

1. Provide building elevations as well as building materials and colors for the proposed building.
2. Submit a sign package.
3. Submit a landscaping plan.
4. Provide a dumpster enclosure. Enclose the dumpster with same building material as the building."

Comments received from the Department of Environmental Protection and Sustainability state in pertinent part:

“The Applicant is advised that there is a State (MDE) groundwater contamination case pertaining to this site, where tanks were removed from a gas station there. Contact MDE – Oil Control at (410) 537-3442 for more information.”

Testimony and evidence offered at the hearing demonstrated that the property

I find that the evidence presented at the hearing would be detrimental to the health, safety or general welfare of the locality involved and the special exception request to approve that use should be approved.

Pursuant to the advertisement, posting of the property, and public hearing on this matter held, and after considering the testimony and evidence offered,

IT IS ORDERED this 22nd day of August, 2011, by this Administrative Law Judge, that the Petition for Special Hearing to amend the original special exception for a fuel service station granted in Case No. 68-70-RX, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”), be and is hereby GRANTED;

IT IS FURTHER ORDERED that the Petition for Special Exception to permit a fuel service station on an individual site and a convenience store with a sales area larger than 1,500 square feet and a carry-out restaurant as uses in combination with the proposed fuel service station pursuant to Sections 405.2.B.1, 405.4.E.1 and 405.4.E.10 of the B.C.Z.R., be and is hereby GRANTED.

IT IS ALSO FURTHER ORDERED that the Petition for Variance from Section 405.4.A.2.b of the B.C.Z.R. to allow a minimum landscape transition area width of zero (0) feet in a side yard and rear yard abutting non-residentially zoned land in lieu of the required 6 feet and 3 feet in a side yard and 8 feet in the front yard abutting a public right-of-way in lieu of the required

10 feet; and from Section 405.4.A.3.c of the B.C.Z.R. to allow one stacking space for each pump island side where a convenience store is located on the same lot, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at their 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. Petitioner shall comply with the Zoning Advisory Committee (ZAC) comments received from the Office of Planning and the Department of Environmental Protection and Sustainability, dated August 12, 2011 and August 1, 2011 respectively; copies of which are attached and made a part hereof.

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

Signed
TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK:dlw