

IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
AND VARIANCE * DEPUTY ZONING
 N side of Hazelwood Avenue; 33 feet W *
 of Emelia Avenue *
 14th Election District * COMMISSIONER
 6th Councilmanic District *
(4902 Hazelwood Avenue) * FOR BALTIMORE COUNTY

Lawrence Odeyemi *
Petitioner * **Case No. 2010-0279-SPHA**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by Mr. Lawrence Odeyemi. Petitioner is requesting Special Hearing relief in accordance with Section 500.7 for an amendment to the plat to accompany special exception and variance application approved under Case No. 1990-0248-XA¹. Petitioner is also requesting Variance relief from Sections 232.1 (via Section 303.2) and 232.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a front yard of 22 feet and a rear yard of 10 feet in lieu of the required 58.5 feet and 20 feet, respectively, for a service garage addition. The subject property and requested relief are more fully described on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the requested relief were Petitioner Lawrence Odeyemi, property owner and proprietor of Esther Automotive, and David Billingsley with Central Drafting & Design, Inc, the firm that prepared the site plan. There were no Protestants or other interested persons present at the hearing.

¹ The subject property was originally reclassified as B.L. and granted a Special Exception as a service station in 1965 (1965-0186-RX). Case #1990-0248-XA renewed the special exception status of the property as a service garage.

Testimony and evidence offered revealed that the subject property is of an irregular, triangular shape consisting of .34 acre (14,810 square feet), more or less, and zoned B.L.-A.S. The property is located at the northeast corner of Westwood Avenue and Hazelwood Avenue, west of Interstate 95 and southeast of Belair Road, near the Baltimore City – Baltimore County line. The area surrounding the property is primarily residential and zoned D.R.5.5 and D.R.3.5, with pockets of commercial zones interspersed within, including a convenience store to the immediate east of the subject property. The property is currently improved with a one-story service garage consisting of 1,833 square feet that contains four service bays used for auto repair and an office area/waiting room.

The Petitioner and property owner, Mr. Lawrence Odeyemi, is the proprietor of the service station located on the property, Esther Automotive. As shown on the property tax records and the Deed that were marked and accepted into evidence as Petitioner's Exhibits 2 and 3, respectively, Petitioner purchased the property in 2006. Previously, the property had been used as a service garage. As shown on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 4, the property was the subject of a prior zoning case, Case No. 1965-0186-RX. In this case, the zoning of the property was reclassified to B.L. and granted a special exception for a service station. Over time, that use was eventually lost; however, as indicated in the site plan and Order in Case No. 1990-0248-XA that were collectively marked and accepted into evidence as Petitioner's Exhibit 5, a special exception for a service garage and variance to permit parking spaces with a 0 foot setback from a street property line in lieu of the required 10 feet was granted.

Since he acquired the property in 2006, Petitioner has operated an automotive service garage, used only for auto repair including but not limited to oil changes, suspension repair,

brake and muffler service and wheel alignment. No automotive body repair work is performed on site and no hazardous materials are used nor fumes emitted from the site. At this juncture, as depicted on the site plan, Petitioner proposes to construct a one-story addition to the property. The proposed addition would provide an additional four service bays for auto repair and an office area consisting of 2,045 square feet. The aerial photographs of the subject site that were marked and accepted into evidence as Petitioner's Exhibits 6 through 8 illustrate that Petitioner is in need of additional space for automotive repairs, as well as to better organize the storage of vehicles in need of repair, and to improve the overall appearance of the site. As evidenced by architectural renderings of the proposed addition that were marked and accepted into evidence as Petitioner's Exhibit 9, the proposed addition would be streamlined into the existing building, providing improved aesthetics to the property as a whole. Moreover, an eight-foot high, screened fence would be constructed to enclose a disabled vehicle storage area to be situated at the westernmost portion of the property, thereby concealing disabled vehicles from public view. Furthermore, new fences would be built at the rear and eastern parts of the property for security and screening.

The proposed addition combined with the existing improvements on the property would create a total building footprint of 3,878 square feet, thereby necessitating 13 parking spaces (3.3 spaces per 1,000 S.F.) in accordance with the B.C.Z.R. Petitioner is in need of variance relief because the proposed addition would create a front yard setback of 22 feet and a rear yard set back of 10 feet in lieu of the required 58.5 feet and 20 feet, respectively. Mr. Billingsley proffered that due to the irregular shape of the property, specifically the manner in which the property narrows to an acute angle toward the western portion of the property, strict compliance

with the Zoning Regulations is impracticable, and that a denial of the request at hand would deprive the property owner of the reasonable and beneficial use of the property.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated May 6, 2010 which indicates no opposition to the requests and suggests conditions to include installing a screening fence around the entire area dedicated to disabled vehicle storage, submit building elevations for review and approval prior to issuance of any building permits, replace or repair deteriorated chain link fencing, and submit landscape plan for review and approval prior to issuance of any building permit.

After due consideration of the testimony and evidence presented, I am persuaded to grant the relief requested. Special circumstances and conditions exist that are peculiar to the land or structure that is the subject of the variance request. The property is unique in that it is shaped irregularly like a triangle with the property lines becoming increasingly narrow toward the western corner of the property. These distinct features of the property drive the need for the variance relief, and I find that Petitioner has satisfied its burden at law. The constraints imposed by these features would create a practical difficulty for Petitioner if strict compliance with the B.C.Z.R. were required, and would result in a denial of a reasonable and beneficial use of the property. *See Belvoire Farms v. North*, 355 Md. 259 (1999). I also find that the variance relief can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety, and general welfare. Indeed, the proposed improvements as depicted would improve the current aesthetics of the property for the betterment of the surrounding community. Thus, I find that the variance request can be granted in such a manner as to meet the requirements of Section 307.1 of the B.C.Z.R., as interpreted in

Cromwell v. Ward, 102 Md.App. 691 (1995). In addition, I find that the request for special hearing for an amendment to the plat to accompany special exception and variance application approved under Case No. 1990-0248-XA is consistent with the intent and guidelines of the prior zoning hearing and is thereby approved.

Pursuant to the advertisement, posting of the property and public hearing held, and after considering the testimony and evidence offered, I find that Petitioner's special hearing and variance requests should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 8th day of June, 2010 that Petitioner's Special Hearing request in accordance with Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") for an amendment to the plat to accompany special exception and variance application approved under Case No. 1990-0248-XA be and is hereby GRANTED; and

IT IS FURTHER ORDERED that Petitioner's Variance request from Sections 232.1 (via Section 303.2) and 232.3 of the B.C.Z.R. to permit a front yard of 22 feet and a rear yard of 10 feet in lieu of the required 58.5 feet and 20 feet respectively for a service garage addition be and is hereby GRANTED.

The relief granted herein is subject to the following conditions:

1. Petitioner is advised that he may apply for any required building permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until the 30-day appeal period from the date of 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 submit building elevations for the proposed addition to the Office of Planning for review and approval prior to the issuance of any building permits.
3. Petitioner shall install a screening fence around the entire area dedicated to disabled vehicle storage.

4. Petitioner shall replace or repair the existing deteriorated wood and chain link fences surrounding the property.
5. Petitioner shall submit a landscape plan to the Office of Planning for review and approval prior to the issuance of any building permits.

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