

IN RE: PETITION FOR SPECIAL HEARING

NE side of Liberty Road, corner of Eside
of Burmont Avenue
2nd Election District
4th Councilmanic District
(9330 Liberty Road)

9330 Liberty Road Acquisition, LLC
Legal Owner
Stellar Cars, LLC
Contract Purchaser

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
*
* **CASE NO. 2011-0269-SPH**

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OPINION AND ORDER

This matter comes before this Administrative Law Judge for consideration of a Petition for Special Hearing filed by 9330 Liberty Road Acquisition, LLC by Demetrios Vagelakos, Authorized Representative, the legal owner of the subject property. The Petition for Special hearing, filed in accordance with Sections 500.6 and 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) is as follows:

- The striking of applicable conditions precedent to the Special Exception approval in Case 93-381-X approving the use of the property for the sale of previously owned automobiles in order to permit the contract purchaser to utilize the property as it is presently used in accordance with Section 236 of the B.C.Z.R.; and
- A modified parking plan per Section 409.12 of the B.C.Z.R.; and
- Such other and further relief as may be deemed necessary by the Administrative Law Judge.

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

Appearing at the public hearing on this Petition were Chip Miller, Authorized Representative, for Stellar Cars, LLC, the contract purchaser and Kenneth J. Wells with kjWells,

Inc., the registered property line surveyor who prepared the site plan. The Petitioner was represented by Lawrence E. Schmidt, Esquire. There were no Protestants or other interested persons in attendance.

The Zoning Advisory Committee comments were made a part of the record of this case, none of which had any comments regarding the relief requested.

Testimony and evidence presented demonstrated that the subject site is a commercial property which fronts Liberty Road at its intersection with Burmont Avenue. Presently the site is vacant; however, it has previously been used as a business known as Prestige Imports, an automobile dealership. The property is vacant at this time and Chip Miller is interested in utilizing the property once again for purposes of an automobile sales dealership. The property comprises a gross acreage of 0.80 acre zoned BR-AS. The property is improved with a one story block and frame commercial building which functions as an automobile sales office. To the rear of that building is situated a small shop area wherein the Petitioner proposes to perform service work. The remainder of the property is utilized for customer and employee parking as well as the display of automobiles for sale.

This property was the subject of a prior zoning hearing specifically Case No. 93-381-X which approved a special exception to allow the current owner to utilize the property as an automobile sales business. In that particular order were imposed several conditions and restrictions on that approval. Specifically, Restriction #4 limited the granting of the special exception to be used only by Prestige Imports and more specifically Mr. Markides, the operator of that business. The granting of the relief in that case for Mr. Markides only and any transfer of the business or operation of the business to any person other than Mr. Markides would require the special hearing which has been filed before this Administrative Law Judge. As a consequence of that restriction,

the Petitioner is filing this special hearing to remove that particular condition. Additionally, Restriction #5 in Case NO. 93-381-X also limits the use of the shop area on the rear of the building. Restriction #5 indicates that there shall be no service garage work performed within that building. This Applicant proposes to perform service work within that building and therefore has asked to modify Restriction #5 of that previous Order.

Additional relief has been requested pursuant to this special hearing petition to approve a modified parking plan pursuant to Section 409.12 of the B.C.Z.R.

Testimony was provided on behalf of Mr. Chip Miller indicating the type of automobile sales operation he intends to operate at this property. Mr. Miller plans on offering for sale high end and expensive automobiles such as Mercedes, BMW and Audi. He also intends to service those vehicles in the small shop area to the rear of the property. The subject property is located adjacent to other established automobile sales operations that have existed in this area of Liberty Road for many years. The continued use of this property by Mr. Miller for the purpose of selling automobiles will pose no problems to the surrounding neighborhood. I see no reason why the special hearing request should not be granted.

In addition, the use of the small shop area to the rear of the existing sales office building shall also be permitted to be utilized for service garage work by Mr. Miller and his associates. Mr. Miller stated that he intends to do mechanical work only and does not intend to perform any body or fender work. However, it should be noted that immediately to the rear of that small four bay garage exists a rather large paint, body and fender business known as Vince's Body Shop. I see no reason why Mr. Miller should not be permitted to provide service work in the small shop to the rear of his building. Therefore, the special hearing shall be approved in that regard.

Lastly, the Petitioner is requesting special hearing approval for a modified parking plan in accordance with Section 409.12 of the B.C.Z.R. The site plan of the property submitted into evidence depicting the display area for vehicles for sale as well as the parking area for customers and employees is well designed and has functioned well with the previous owner. Therefore, there is no need to change or alter the manner in which this design has functioned for the past many years. The testimony offered on behalf of Mr. Wells demonstrated that the design and layout of the parking is appropriate and accordingly I shall approve this modified parking plan in accordance with Section 409.12 of the B.C.Z.R. To do otherwise would create an undue hardship upon the Applicant and approval is hereby granted.

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

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 25 day of April, 2011, that the Petitioner's request for Special Hearing relief, filed pursuant to Sections 500.6 and 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") specifically requesting:

- The striking of applicable conditions precedent to the Special Exception approval in Case 93-381-X approving the use of the property for the sale of previously owned automobiles in order to permit the contract purchaser to utilize the property as it is presently used in accordance with Section 236 of the B.C.Z.R.; and
- Approval of a modified parking plan per Section 409.12 of the B.C.Z.R.

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

1. Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the thirty (30) day Appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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

Signed _____
TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/pz