

<b>IN RE: PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND VARIANCE</b>		
NW/Side of Pulaski Highway, 562 feet	*	OFFICE OF
SW of the c/line of Allender Road		
11 <sup>th</sup> Election District	*	ADMINISTRATIVE HEARINGS
5 <sup>th</sup> Councilmanic District		
<b>(11424 Pulaski Highway)</b>	*	FOR BALTIMORE COUNTY
Ronald W. Parker	*	
<i>Legal Owner</i>		<b>CASE NO. 2011-0287-SPHA</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings for consideration of Petitions for Special Hearing and Variance filed by the legal property owner, Ronald Parker. The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows:

1. To amend the site plan filed in Case Nos. 5378, 72-36-x, 83-124-SPH and 2010-0006-SPHA by taking out old fuel pumps and old canopy and adding new canopy and fuel pumps next to proposed trailer repair addition.
2. To add proposed one story (578 sq. ft.) tractor repair addition to existing tractor repair building and to relocate previously shown covered breezeway to allow for a connection from the proposed tractor repair addition to the proposed trailer repair addition.

In addition, the Petitioner is requesting variance relief from Sections 238.2 and 405.4.A.2.d to permit a proposed canopy with a property line setback of 16 feet in lieu of the required 30 feet. 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 Special Hearing and Variance requests was Ronald W. Parker, property owner, and Robert Infussi with Expedite, LLC, who is assisting the Petitioner with the permitting process. Also in attendance was William Bafitis with

Bafitis & Associates, Inc., the professional engineer who prepared the site plan. There were no Protestants or other persons present.

Testimony and evidence offered revealed that the subject property consists of 2.295 acres more or less and is split zoned BR-AS and ML. The subject property is the site of a tractor trailer, gasoline and diesel service station as well as a trailer repair facility. The property is located on the northwest side of Pulaski Highway near its intersection with Allender Road. This particular property has been a truck stop for many years. It serves a fueling station for tractor trailers as well as a service facility to work on those types of tractors and trailers. There is also an area along Pulaski Highway where passenger vehicles can stop for gas. The owner of the property is interested in making some improvements to the site by constructing a 3,900 square foot trailer repair addition with a smaller one story 578 square foot addition both of which are shown on the site plan which was submitted into evidence as Petitioner's Exhibit 2. In order to proceed with the modifications to the site, the special hearing relief is necessary to amend the previously approved site plan for this property as well as variance relief to allow the proposed canopy to have a setback to the property line of 16 feet in lieu of the required 30 feet.

As to the variance relief, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioner.

I further find that the variance can be granted in strict harmony with the spirit and intent of said regulations, and in such a manner as to grant relief without injury to the public health, safety, and general welfare. Thus, I find that the variance can be granted in such a manner as to meet the requirements of Section 307 of the B.C.Z.R, as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Fire Marshal's Office dated March 31, 2011, which indicates that the proposal must comply with all applicable parts of the Baltimore County Fire Prevention Code, Council Bill 48-10 prior to occupancy or the beginning of operation.

Based upon the testimony and evidenced offered, and the support of this project, I am persuaded to grant the requested Special Hearing and Variance relief.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and after considering the testimony and evidence offered by the parties, I find that Petitioner's requests for Special Hearing and Variance should be granted.

THEREFORE, IT IS ORDERED this 12 day of May, 2011 by the Administrative Law Judge, that the request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") as follows:

1. To amend the site plan filed in Case Nos. 5378, 72-36-x, 83-124-SPH and 2010-0006-SPHA by taking out old fuel pumps and old canopy and adding new canopy and fuel pumps next to proposed trailer repair addition, and
2. To add proposed one story (578 sq. ft.) tractor repair addition to existing tractor repair building and to relocate previously shown covered breezeway to allow for a connection from the proposed tractor repair addition to the proposed trailer repair addition,

be and are hereby GRANTED; and

IT IS FURTHER ORDERED that the Variance request relief from Sections 238.2 and 405.4.A.2.d to permit a proposed canopy with a property line setback of 16 feet in lieu of the requirec 30 feet, be and is hereby GRANTED.

The relief granted is subject to the following conditions:

1. Petitioners may apply for their building permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
2. The proposal must comply with all applicable parts of the Baltimore County Fire Prevention Code, Council Bill 48-10 prior to occupancy or the beginning of operation.

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

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Signed  
TIMOTHY M. KOTROCO  
Administrative Law Judge  
for Baltimore County

TMK/pz