

IN RE: PETITIONS FOR SPECIAL EXCEPTION	*	BEFORE THE
AND VARIANCE		
W side of Main Street, 395 feet S	*	OFFICE OF
of the c/l of Bond Avenue		
4 th Election District	*	ADMINISTRATIVE HEARINGS
3 rd Councilmanic District		
(328 Main Street)	*	FOR BALTIMORE COUNTY
Skipper Investments, LLC	*	Case No. 2012-0070-XA
<i>Legal Owner</i>		

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Office of Administrative Hearings as a Petition for Special Exception and Variance filed for property located at 328 Main Street, in Reisterstown. The Petition was filed by the legal owner of the subject property, Skipper Investments, LLC. The Special Exception Petition seeks to amend the order and site plan in Case 76-160-X, which permitted the operation of a service garage at the premises. Petitioner is also requesting Variance relief from Section 409.6.4.2 of the Baltimore County Zoning Regulations (B.C.Z.R) to permit 35 off-street parking spaces in lieu of the required 42 parking spaces. 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 were Stephen and Adam Schloss of Skipper Investments, LLC, Robert Hanna of Hanna Building Systems and Kenneth Colbert with Colbert Matz Rosenfelt, Inc., the professional engineer who prepared the site plan. David H. Karceski, Esquire, attended as attorney for the Petitioner. There were no Protestants or interested persons in attendance, and the file does not contain any letters of protest or opposition.

Testimony and evidence offered at the hearing revealed that the site is located in historic Reisterstown, and presently contains an automotive service garage and trailer serving as office

space. See Exhibits 9 and 10. Though not in violation of County law, the current operation can fairly be characterized as “unattractive” or even unsightly, since the service bay doors are visible from the road and the site is cluttered. The proposed structure is very attractive, and to the naked eye would almost certainly not appear to be an automotive service facility with related office uses. See Exhibit 9. The Petitioner proposes a 12 bay service facility – that will be accessed through doors not visible from the road – and related offices and vehicle display area on the premises. See Exhibit 1.

By way of proffer, Kenneth Colbert, P.E., testified he has visited the site numerous times, and that the proposal satisfies each of the special exception factors set forth in B.C.Z.R. § 502. Mr. Colbert further testified that certain site constraints – especially the long and narrow shape of the parcel – and design choices (i.e., widening the building to allow for vehicle access in the rear) forced the need for variance relief for the parking spaces. Even so, Mr. Colbert opined that the 35 spaces proposed (in lieu of 42 required under the B.C.Z.R.) was sufficient, and he added that the project would not negatively impact traffic in the area, and that no “failing intersections” existed in the immediate vicinity.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Bureau of Development Plans Review dated September 23, 2011, which indicate “while we do not oppose the requested relief, we would like to advise the petitioner that the following must be addressed prior to approval of a building permit.

1. A suitable outfall for the storm water management facility must be provided.
2. The building corner must be at least 6 feet outside of utility easement. This will reduce the building length from 108 feet to 104 feet.”

At the hearing, Petitioner submitted a revised plan initialed by Mr. Kennedy, indicating the plan was now “ok,” and it would thus appear these concerns have been addressed. See Exhibit 2. In any event, the “suitable outfall” concern is one addressed at the next phase of the development process, not in a zoning hearing.

The Office of Planning also submitted a series of comments set forth in a memorandum dated October 28, 2011. The Petitioner met with the Office of Planning on several occasions, and has agreed to complete the five modifications set forth in that memorandum, which will be attached as an Exhibit to this Order.

In regard to the variance request, based on the testimony and evidence, I find special circumstances or conditions (as noted above) exist that are peculiar to the land or structure which is the subject of the variance request. 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.

As for the special exception relief, the proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor would it tend to create congestion in roads, streets, or alleys therein. Finally, the proposed use is not 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.

Pursuant to the advertisement, posting of the property, and public hearing on these petitions, and after considering the testimony and evidence offered, I find that Petitioner’s Special Exception and Variance request should be granted.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 10th day of November, 2011 that Petitioner’s request for Special Exception to amend the

order and site plan in Case 76-160-X, as shown on the red lined site plan marked herein as Exhibit 1, be and is hereby **GRANTED**; and

IT IS FURTHER ORDERED that Petitioner's request for Variance relief from Section 409.6.4.2 of the Baltimore County Zoning Regulations (B.C.Z.R), to permit 35 off-street parking spaces in lieu of the required 42 parking spaces, 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 its 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 comments received from the Office of Planning dated October 28, 2011, which are attached hereto and incorporated herein.

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/pz