

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
E/S of York Road at a distance of 200' from	*	OFFICE OF
the c/line of Gerald Avenue		
(2127 York Road)	*	ADMINISTRATIVE HEARINGS
8 th Election District		
4 th Councilmanic District	*	FOR BALTIMORE COUNTY
Timonium Land Corporation, <i>Legal Owner</i>	*	CASE NO. 2012-0058-SPHA
Express Fuel, Inc., <i>Lessee</i>		
<i>Petitioners</i>	*	

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for consideration of Petitions for Special Hearing and Variance filed by Lawrence E. Schmidt, Esquire with Smith, Gildea & Schmidt, LLC, on behalf of the legal property owner, Timonium Land Corporation, Legal Owner, and Express Fuel, Inc., the Lessee (“Petitioners”).

The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit the following:

- (1) The request to amend the approved site plan (Case No. 01-300-XA),
- (2) The request to convert the 200 square foot carry-out restaurant back to a convenience store use for a 7-Eleven store,
- (3) The request to relocate the existing carwash stacking lanes through the existing landscape area (Case No. 97-547-XA) to the car wash entrance,
- (4) The request to provide an expansion of 12 feet, 7 inches to the 7-Eleven convenience store,
- (5) The request to provide 5 additional parking spaces for overflow use when the stacking lanes are not fully utilized and amendment to the existing parking for 6 cars; and
- (6) For such other and further relief as may be required by the Administrative Law Judge.

In addition, Variance relief was filed pursuant to Sections 405.4.A.3.D(1), 405.4.A.3.D(2), 405.4.A.3.D(4), 409.6.A.2, 419.3.B.1 and 419.3.B.4 of the B.C.Z.R. to permit the following:

- (1) A total of 21 spaces in lieu of the required 28 parking spaces, a variance of 7 parking spaces in lieu of the 6 parking space variance granted in Case No. 01-300-XA, and
- (2) For such other and further relief as may be required by the Administrative Law Judge.

The subject property and requested relief are more fully described on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the requisite public hearing in support of the Special Hearing and Variance requests were Mark A. Krug, authorized representative of Express Fuel, Inc. and Timonium Land Corporation, and Paul Lee with Century Engineering. Also attending were Scott Davison, Laverna Olkowski and Kevin Dayhoof, all on behalf of the Petitioners. Lawrence E. Schmidt, Esquire represented the Applicant. There were no Protestants or other interested persons present.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse comments received from any of the County reviewing agencies.

Testimony and evidence indicated that the property which is the subject of this special hearing and variance request consists of 0.638 acres, more or less, and is zoned BM-AS. The property is improved with a 1,500 sq. ft. convenience store with a carry-out restaurant (Subway Subs). In addition, there exists a full service car wash on the east side of the building. The property at this time is a "Petro" Gas station. The property owners have been approached by 7-Eleven with the intention of converting the existing property into a 7-Eleven Convenience Store and gas station. The car wash will remain; however, the Subway Sub shop will be eliminated and removed from the site. That area formerly used by Subway will become part of the overall 7-Eleven convenience store operation.

A small one story addition is proposed to be constructed on the north side of the building, adding an additional 12' 7" of interior space to the convenience store. In addition, all existing signage will be changed to identify this property as a 7-Eleven Convenience Store. In order to proceed with the upgrades and improvements to the site, the zoning relief requested is necessary.

The uncontradicted testimony and evidence offered at the hearing demonstrated that the Special Hearing relief requested should be approved as there will be no adverse impact to the surrounding properties and the improvements to the site will be a benefit to the community.

In addition, based upon the testimony and evidence presented, I am persuaded to grant the request for 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.

Finally, I find that the granting of the variance is within the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare.

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

THEREFORE, IT IS ORDERED this ___19th ___ day of October, 2011, by this Administrative Law Judge, that Petitioners' request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit the following:

- (1) The request to amend the approved site plan (Case No. 01-300-XA),
- (2) The request to convert the 200 square foot carry-out restaurant back to a convenience store use for a 7-Eleven store,
- (3) The request to relocate the existing carwash stacking lanes through the existing landscape area (Case No. 97-547-XA) to the car wash entrance,
- (4) The request to provide an expansion of 12 feet, 7 inches to the 7-Eleven convenience store, and

- (5) The request to provide 5 additional parking spaces for overflow use when the stacking lanes are not fully utilized and amendment to the existing parking for 6 cars,

be and is hereby GRANTED.

IT IS FURTHER ORDERED that Petitioners' request for Variance relief filed pursuant to Sections 405.4.A.3.D(1), 405.4.A.3.D(2), 405.4.A.3.D(4), 409.6.A.2, 419.3.B.1 and 419.3.B.4 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit the following:

- (1) A total of 21 spaces in lieu of the required 28 parking spaces, a variance of 7 parking spaces in lieu of the 6 parking space variance granted in Case No. 01-300-XA,

be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for their building permit 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 such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners 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/dlw