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| IN RE: <b>PETITIONS FOR SPECIAL HEARING</b> *   | BEFORE THE                     |
| <b>AND VARIANCE</b>                             |                                |
| (1936 Powers Lane) *                            | OFFICE OF                      |
| 1 <sup>st</sup> Election District               |                                |
| 1 <sup>st</sup> Council District *              | ADMINISTRATIVE HEARINGS        |
| John A. & Bernadette S. Hoffman, <i>Owners</i>  |                                |
| A & I Realty, LLLP, <i>Contract Purchaser</i> * | FOR BALTIMORE COUNTY           |
| Petitioners                                     |                                |
|   | <b>Case No. 2016-0062-SPHA</b> |

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**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of John A. and Bernadette S. Hoffman, legal owners and A & I Realty, LLLP, contract purchaser (“Petitioners”). The Special Hearing was filed pursuant to §409.8.B of the Baltimore County Zoning Regulations (“B.C.Z.R.”), for approval of business parking in a residential zone. In addition, an amended Petition for Variance seeks: (1) to allow off-street parking spaces to be located a minimum of 19, 14 and 12 ft. from the west, southeast and northeast tract boundaries, respectively in lieu of the required 75 ft.; and (2) to allow a minimum RTA buffer of 19, 14, and 12 ft. along the west, southeast and northeast tract boundaries, respectively in lieu of the required 50 ft. buffer. A redline site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the public hearing in support of the requests was Julie Webb, Elaine Hoffman, Bernadette Hoffman, Stanford Hess, Bernadette Hoffman-Wild, Lawrence Wild, Chris Traczyk, Richard Matz and Sally Molena. David H. Karceski, Esq., and Adam Rosenblatt, Esq., represented the contract purchaser. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPR) and the

Department of Planning (DOP). Several members of the community, represented by Michael McCann, Esq., opposed the requests.

The subject property is 3.91 acres and is split-zoned DR 1 (2.59 acres) and DR 2 (1.32 acres). The unimproved lot is located on Powers Lane, which parallels Baltimore National Pike (Rt. 40) in Catonsville. The contract purchaser operates the Antwerpen Hyundai dealership, which is located at 6440 Baltimore National Pike, approximately 910 feet from the subject property. Antwerpen proposes to store new vehicle inventory on the site, and would take vehicles from the lot approximately three times a day to replace vehicles sold from the dealership property.

Petitioners' expert planner Maxwell Vidaver opined that the use would be compatible with surrounding uses and would not have a detrimental impact upon the community. I concur, and also believe that the storage lot would be a low intensity "transition use" (separating the residential community to the north of the site from the Rt. 40 commercial corridor) as described by Mr. Vidaver. While there are two single family dwellings near the subject property, it appears based on photographs submitted that one of the homes is vacant and/or in deplorable condition. As such, the other single-family home (shown in photos marked as Protestants' Ex. 3) would in my opinion be the only property impacted in any substantial way by this use, and I believe the landscaping and screening proposed (Petitioners' Ex. 11) would reduce any negative impacts.

Even so, I do not believe the parking regulations permit the use proposed herein. The petition for special hearing seeks approval for business parking in a residential zone. Under B.C.Z.R. §409.8.B the Administrative Law Judge (ALJ) may issue a use permit for these purposes to enable the petitioner "to meet the requirements of Section 409.6." That section of the regulations provides a list of uses along with the requisite number of parking spaces which must be provided as an adjunct thereto. Here, the Antwerpen dealership proposes to utilize the lot for

storage of new vehicle inventory, not to satisfy B.C.Z.R. §409.6. As such, I believe the petition must be denied.

THEREFORE, IT IS ORDERED this 20<sup>th</sup> day of November, 2015, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to §409.8.B of the Baltimore County Zoning Regulations (“B.C.Z.R) for approval of business parking in a residential zone, be and is hereby DENIED.

IT IS FURTHER ORDERED that the Petition for Variance: (1) to allow off-street parking spaces to be located a minimum of 19, 14 and 12 ft. from the west, southeast and northeast tract boundaries, respectively in lieu of the required 75 ft.; and (2) to allow a minimum RTA buffer of 19, 14, and 12 ft. along the west, southeast and northeast tract boundaries, respectively in lieu of the required 50 ft. buffer, be and is hereby DENIED AS MOOT.

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

JEB/sln

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County