IN THE IN THE PETITION OF SYLVAN CORNBLATT FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CIRCUI IN THE CASE OF SYLVAN CORNBLATT PEOPLE'S COUNSE LEGAL OWNER/PETITIONER FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCE on property located on the NE/S **FOR** Reisterstown Road, 58' NW of c/l Harden Avenue (9619 Reisterstown Road) 3<sup>rd</sup> Election District, 2<sup>nd</sup> Councilmanic District **BALTIMORE COUNTY** Case No. 05-176-SPHX Case No.: 03-C-05-007770 Before the County Board of Appeals

#### **ORDER**

> JUDGE, CIRCUIT COURT FOR BALTIMORE COUNTY

SUZANNE MENSH, Clerk

Assistant Clerk

IN THE MATTER OF
THE APPLICATION OF
SYLVAN CORNBLATT – LEGAL OWNER;
ENTERPRISE LEASING CO. -PETITIONERS
FOR SPECIAL HEARING, SPECIAL
EXCEPTION AND VARIANCE ON PROPERTY
LOCATED ON THE NE/S REISTERSTOWN RD \*
58' NW OF C/L OF HARDEN AVENUE
(9619 REISTERSTOWN ROAD)

3<sup>RD</sup> ELECTION DISTRICT 2<sup>ND</sup> COUNCILMANIC DISTRICT BEFORE THE

COUNTY BOARD OF APPEALS

OF

BALTIMORE COUNTY

Case No. 05-176-SPHXA

#### OPINION

This matter is before the Board on an appeal from a decision of the Deputy Zoning Commissioner (DZC) in which he granted Petitions for Special Hearing, Special Exception and Variance for property owned by Sylvan L. Comblatt. The property which is the subject of this request is located at 9619 Reisterstown Road in Baltimore County. It is zoned B.L. and D.R. 3.5. The Petitioners are requesting a variance from § 1B01.1.B.1 of the *Baltimore County Zoning Regulations* (BCZR) to permit a residential transition area (RTA) setback and buffer of as little as 13 feet in lieu of the required 50-foot buffer and 75-foot setback respectively. In addition, special exception is requested pursuant to § 230.13 of the BCZR to permit an automotive service garage (in reality, a rental car facility) in a B.L. zone. Finally, Petitioner is requesting a special hearing to permit business parking in a residential zone in accordance with § 409.8.B of the BCZR subject to compliance with § 409.7.B.2, and to permit parking for the proposed service garage (rental vehicles in operating condition only) in the parking permitted in the residential zone.

Petitioners were represented by Matthew H. Azrael, Esquire, and Appellant, Office of People's Counsel, by Peter Max Zimmerman. A hearing was held on March 23, 2005. Public deliberation was held on May 12, 2005.

#### Petitioners' Evidence

Petitioners presented Patrick C. Richardson, Jr., a licensed civil engineer, who testified with respect to the proposed plan which had been submitted to the Board. The property consists of approximately 4,234 sq. ft. of land in two separate parcels. The front parcel is zoned B.L. and the rear parcel is zoned D.R. 3.5. Mr. Cornblatt proposes to lease approximately 1,250 feet of space to Enterprise Car Rental for its office and service operations. The attorney for Petitioner explained that the BCZR does not have a specific designation for car rental agency but that the Zoning Office believes these agencies fall under the larger category of automotive service garage under § 230.13 of the regulations, which are allowed by special exception.

The shopping center is a two-story building which slopes down from Reisterstown Road, where the fronts of the buildings are located, to a two-story operation in the rear of the shopping center.

The second piece of property is located at One Montrose Avenue. It is .3 acre and is currently vacant. The house that had been erected on the property was torn down several years ago. Mr. Comblatt had acquired the Montrose Avenue property in August of 1999. He sought to have the property rezoned to B.L. in the rezoning process in 2000. Mr. Comblatt proposed to add additional parking for the shopping center and make an additional exit from the shopping center through the Montrose Avenue property. The County Council rejected the application for the change in zoning, and the property remained D.R. 3.5. Mr. Richardson stated that there are currently 53 parking spaces to accommodate the customers for the shopping center. He stated that the Petitioner could add six additional parking spaces to the rear of the shopping center without utilizing the Montrose Avenue property, but that Enterprise Rental Car would need 18 spaces in order to properly utilize the property. If the 18 spaces could not be obtained, Enterprise would not lease the property.

Mr. Richardson testified that he felt that the property on Montrose Avenue was a unique piece of property because of its configuration which is that of a triangle. He felt that it would be limited with respect to construction of a house on the property, and that without the variances, he felt that the Petitioner could not use the property. It was Richardson's opinion that the 75-foot buffer and 50-foot setback requirements of the RTA make it impossible to utilize the property. Therefore, the Petitioner requested a 13.5-foot buffer and setback in lieu of the 75-foot buffer and 50-foot setback.

Mr. Richardson felt that the Petitioner met all the requirements of 502.1 of the BCZR to allow the automotive service garage in the B.L. zone. He felt that it would not be detrimental to the health, safety and welfare of the neighbors since no neighbors had protested or raised any concerns. He indicated that there would be no congestion on the property since the entrance to the site would be off Harden Avenue and not Montrose Avenue. He stated that there would be screening on the Montrose Avenue property which would shield the parking of the automobiles from the neighbors on Montrose Avenue. He also felt that there was no detriment to natural resources and the Petitioner would comply with all stormwater management requirements, although there had been no plans prepared with respect to stormwater management at this point.

Steve Cornblatt testified for the Petitioner and stated that he had assisted his father,

Sylvan Cornblatt, at times in his real estate operations. He testified with respect to the attempt to
rezone the Montrose Avenue property which was acquired in 1999 and stated that they had tried
to sell the lot as a residential property. He stated that there was no intent to build a house on the
property because of the undesirable location behind the shopping center and a Tune and Lube
operation next to the shopping center. Mr. Cornblatt also stated that he had received no protests
from any individuals in the neighborhood and felt that the property was not a viable residential

Case No. 05-176-SPHXA , Sylvan Cornblatt; Enterprise Leasing Co. - Petitisalers

property and could not be used for any other operation other than the parking for rental cars. He did state that the property had not been multiple-listed in an attempt to sell it.

Andrew Wensler, the group manager for Enterprise Rental Car, testified with respect to the proposed operation at the shopping center. He stated that it would not be a viable for Enterprise to lease only seven spaces in the rear of the shopping center since it needed additional cars in order to have a successful operation. He testified that Enterprise had sent out notices to individuals in the neighborhood telling them of the proposal and asking them to call him if they had any problems they wished to discuss; however, he had received no inquiries from any of the neighbors.

#### People's Counsel's Evidence

People's Counsel presented William Hughey, the Third District Planner from Baltimore County's Office of Planning. Mr. Hughey indicated that his office opposed the proposed variance to the residential transition area. He stated that he had worked on the final Log of Issues in the 2000 Comprehensive Map Process and that the County Council had determined that the property at One Montrose Avenue should remain D.R. 3.5. He verified an interoffice correspondence memorandum to Timothy M. Kotroco, Director of the Department of Permits & Development Management (PDM) from the Director of the Office of Planning in which Planning recommended denial of the special hearing and variance, stating that parking on the site of One Montrose Avenue would be intrusive for the residential neighborhood along Montrose Avenue and would represent a significant commercial encroachment which would change the character of the neighborhood.

Finally, People's Counsel presented John Dillon, a consulting professional planner who was accepted as an expert planner. Mr. Dillon had evaluated the Petition for People's Counsel and stated that he had been the area planner for the Third District up to 1993. He was familiar with the Montrose Avenue area and the piece of property in question at One Montrose Avenue.

He stated that the property was not unique in that a piece of property directly across the street, at 8 Montrose Avenue, was also a triangular piece of property. A new house had been recently built on 8 Montrose Avenue which was a 6,900 sq. ft. piece of property as opposed to One Montrose Avenue, which was 13,600 sq. ft. Mr. Dillon also presented a drawing on which he had shown how he felt a home could be constructed on the property at One Montrose Avenue. He also indicated other uses for the property, such as day care center or professional office.

It was Mr. Dillon's position that the Petitioner could not meet the requirements of § 409.6 with respect to parking since the shopping center already met the parking requirements with its 53 parking spaces and did not need additional parking in order to meet the requirements of the tenants.

Dillon also stated that he felt that there was no hardship or practical difficulty with respect to the utilization of the property at One Montrose Avenue. He also felt that the Petitioner did not meet the requirements of § 502.1 with respect to the special exception for the automotive garage since he felt that the health, safety and general welfare of the community would be affected because the commercial use would extend into the residential area. He opined that the land would be overcrowded since it would be necessary to pave the Montrose Avenue property in order to park the automobiles on it, and it would be inconsistent with the spirit and intent of the regulations for the special exception to be allowed.

Finally, Diana Itter, 2<sup>nd</sup> District Planner for the Office of Planning, testified and stated that she had visited the site recently and was also not in favor of the variance for the RTA as requested. She indicated that lighting is usually provided in a parking lot for some type of security and that rental car storage should be in commercial zones. She did not feel that the property was unique and stated that many residential properties abutted commercial properties along the Reisterstown Road corridor.

#### Decision

The Board feels that the special exception to allow an auto service garage in a B.L. zone in order to accommodate Enterprise Rental Car should be denied. The BCZR does not classify a car rental agency as a business that may be allowed in a B.L. zone by special exception. It is not as though the County Council has not considered rental car agencies, since § 405.E.5 of the BCZR allows rental cars to be attached to a service station operation by special exception.

In addition, even if a rental car agency is considered to be an auto service garage, the Board finds that the car rental agency would not meet the requirements of § 502.1. The parking of numerous automobiles in the area and on the property at One Montrose Avenue would encroach upon the residential nature of the Montrose Avenue enclave. The paving of the land and the parking of automobiles in that area and on the parking lot of the shopping center would be an overcrowding of the land and not consistent with the spirit and intent of the zoning regulations.

The Board does not feel that a variance should be granted from § 1B01.1.B.1 of the BCZR to permit a residential transition area setback and buffer of as little as 13 feet in lieu of the required 50-foot buffer and 75-foot setback respectively. As indicated by the testimony of Mr. Dillon and the exhibits presented by People's Counsel, the property in question is not unique in that there is a similar piece of property across the street from the property in question, One Montrose Avenue. The fact that the property could not be used to park 18 rental cars does not make the property unusable and does not create a hardship on the owner.

Finally, the Board will not grant the special hearing to permit business parking in a residential zone in accordance with § 409.8.B of the BCZR. Petitioner's own witness testified that there are 53 parking spaces currently available on the parking lot of the shopping center. He stated that this meets the requirement of the law. There is no reason to allow additional parking in a residential zone. Therefore, the request for special hearing should be denied.

#### ORDER

THEREFORE, IT IS THIS Land day of June, 2005 by the County Board of Appeals of Baltimore County

ORDERED that the special exception requested pursuant to § 230.13 of the BCZR to permit an automotive service garage (car rental facility only) in a B.L. zone be and is hereby DENIED; and it is further

ORDERED that the variance requested from § 1B01.1.B.1 of the *Baltimore County Zoning Regulations* (BCZR) to permit a residential transition area setback and buffer of as little as 13 feet in lieu of the required 50-foot buffer and 75-foot setback respectively be and is hereby **DENIED**; and it is further

ORDERED that the request for special hearing relief to permit business parking in a residential zone in accordance with § 409.8.B of the BCZR subject to compliance with § 409.7.B.2 to permit parking for the proposed service garage (rental vehicles in operating condition only) in the parking permitted in the residential zone be and is hereby **DENIED**.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

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Lawrence S. Wescott, Chairman

Margaret Brassil, Ph.D.

John P. Quinn

#### Department of Permits and Development Management

Director's Office
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3353 • Fax: 410-887-5708



#### **Baltimore County**

James T. Smith, Jr., County Executive Timothy M. Kotroco, Director

January 27, 2005

Matthew H. Azrael, Esq. Azrael, Gann & Franz, LLP 101 E. Chesapeake Avenue, 5<sup>th</sup> Floor Towson, MD 21286

Dear Mr. Azrael:

RE: Case: 05-176-SPHXA, 9619 Reisterstown Road

Please be advised that an appeal of the above-referenced case was filed in this office on December 27, 2004 by People's Counsel of Baltimore County. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Timothy Kotroco

Director

#### TK:klm

c: William Wiseman, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Sylvan Cornblatt, P.O. Box 364, Owings Mills 21117
Andrew Wendler, 1480 Coventry Meadows Dr., Sykesville 21784
Robert McGrain, 8817 Dearborn Dr., Baltimore 21236
Sabrina Grato, 170 Langdon Farm Circle, Odenton 21113
Steven Cornblatt, 15 Gray Squirrel Ct., Lutherville 21093
Rick Richardson, 730 W. Padonia Rd., Cockeysville 21030



#### County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 410-887-3180 FAX: 410-887-3182

January 18, 2005

Matthew H. Azrael, Esquire 101 E. Chesapeake Avenue Baltimore, MD 21286

RE: In the Matter of: Sylvan L. Cornblatt – Legal Owner and Enterpirse Leasing Co of Baltimore by Andrew Wendler, Lessee – Petitioners Case No. 05-176-SPHXA

Dear Mr. Azrael:

This letter will acknowledge receipt of your correspondence of January 10<sup>th</sup> in the subject matter. Once we have received the subject file from the Department of Permits & Development Management, consideration will be given to your request for an expedited hearing.

While the Board's docket is scheduled at this time through the end of March, dates do come open as the result of dismissals and postponements; however, please note that at least 10 days notice is required when scheduling a hearing before the Board.

Should you have any questions, please call me at 410-887-3180.

Very truly yours,

Takken C. Beanco
Kathleen C. Bianco
Administrator

c: Peter Max Zimmerman, Esquire Timothy M. Kotroco, Director /PDM

#### Baltimore County, Maryland



OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse 400 Washington Ave. Towson, MD 21204

> 410-887-2188 Fax: 410-823-4236

PETER MAX ZIMMERMAN People's Counsel CAROLE S. DEMILIO Deputy People's Counsel

December 27, 2004

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Per.....

Timothy Kotroco, Director Department of Permits and Development Management 111 W. Chesapeake Avenue Towson, MD 21204

Hand-delivered

Re:

PETITION FOR SPECIAL HEARING, SPECIAL

**EXCEPTION AND VARIANCE** 

NE/S of Reisterstown Road, 58' NW c/line of Harden Avenue

(9619 Reisterstown Road)

3<sup>rd</sup> Election District; 2<sup>nd</sup> Council District

Sylvan L. Cornblatt, Legal Owners and Enterprise Leasing Company of

Baltimore by Andrew Wendler, Lessee, - Petitioners

Case No.: 05-176-SPHXA

Dear Mr. Kotroco:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals from the Findings of Fact and Conclusions of Law dated December 1, 2004 by the Baltimore County Deputy Zoning Commissioner in the above-entitled case

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours.

Peter Max Zimmerman

Reople's Counsel for Baltimore County

and S. Demilio

Carole S. Demilio

Deputy People's Counsel

PMZ/CSD/rmw

cc: Matthew H. Azrael, Esquire

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IN RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE NE/S of Reisterstown Road, 58 ft. NW centerline of Harden Avenue 3rd Election District 2nd Councilmanic District (9619 Reisterstown Road)

Sylvan L. Cornblatt, Legal Owner and

Enterprise Leasing Company of Baltimore By: Andrew Wendler, Lessee

Petitioners

BEFORE THE

\* DEPUTY ZONING COMMISSIONER

\* OF BALTIMORE COUNTY

\* CASE NO. 05-176-SPHXA

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as Petitions for Special Hearing, Special Exception and Variance filed by the legal owner of the property, Sylvan L. Cornblatt and Enterprise Leasing Company of Baltimore, by Andrew Wendler, Lessee. The property, which is the subject of this request, is located at 9619 Reisterstown Road in Baltimore County and is zoned BL & D.R.3.5. The Petitioners are requesting a variance from Section 1B01.1.B.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a residential transition area setback and buffer of as little as 13 ft. in lieu of the required 50 ft. buffer and 75 ft. setback, respectively. In addition, a special exception is requested pursuant to Section 230.13 of the B.C.Z.R., to permit an automotive service garage (car rental facility) in a BL zone. Finally, the Petitioners are requesting a special hearing to permit business parking in a residential zone per Section 409.8.B of the B.C.Z.R. subject to compliance with Section 409.7.B.2 and to permit parking for the proposed service garage (rental vehicles in operating condition only) in the parking permitted in the residential zone.

The property was posted with Notice of Hearing on November 8, 2004, for 15 days prior to the hearing in order to notify all interested citizens of the requested zoning relief. In addition,

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a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on November 9, 2004 to notify any interested persons of the scheduled hearing date.

#### **Applicable Law**

#### Section 307 of the B.C.Z.R. - Variances.

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

#### Section 502.1 of the B.C.Z.R. - Special Exceptions

Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

- A. Be detrimental to the health, safety or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein;
- C. Create a potential hazard from fire, panic or other danger;
- D. Tend to overcrowd land and cause undue concentration of population;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- F. Interfere with adequate light and air; [Bill No. 45-1982]
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the sprit and intent of these Zoning Regulations; [Bill No. 45-1982]
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor [Bill No. 45-1982]
- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 zone. [Bill No. 74-2000]

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#### Section 500.7 of the B.C.Z.R. Special Hearings

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

#### Section 1B01.c 2 Residential Transition Areas

"The RTA for a tract may be modified as directed by findings pursuant to Sections 26-206 and 26-282 of the Baltimore County Code, 1988 Edition, as revised. However, the hearing officer may not reduce the amount of RTA unless the officer specifically finds and determines that such a reduction will not adversely impact the residential community or development on the land adjacent to the property to be developed.

- d. A residential transition use is any use: [Bill No. 2-1992]
- Any parking area permitted under Section 409.8.B, subject to the approval of a specific landscape plan for the buffer area, which must meet the requirements for a Class, A plan.
- e. Conditions in residential transition areas. [Bill No. 2-1992]
- (1) The RTA may contain single-family detached, semidetached or duplex dwellings.
- (2) parking lots shall be set back from the tract boundary 75 feet and provide a fifty-foot RTA buffer.
- (3) The fifty-foot RTA buffer shall remain an upgraded, uncleared, landscaped buffer unless otherwise directed by the hearing officer, based upon recommendations of the county. It shall not contain cleared drainage areas, stormwater management ponds or accessory structures, but it may be bisected by roads, paths and trails that are designed to connect to adjoining developments.
- (4) The maximum height of any lighting fixtures in an RTA buffer area shall be 16 feet, except for public utility uses which must be of reasonable height. The fixtures shall be designed and placed so as to prevent the spillage of light into any adjoining dwelling or lot. The intensity of the fixture shall not exceed 0.2 candle at the tract boundary.
- (5) Parking lots or structures, either as principal or accessory use, whether permitted by right, special exception or pursuant to Section 409.8.B, shall provide a fifty-foot buffer and seventy-five-foot setback, and a height not to exceed 35 feet within the one-hundred-foot transition area."

#### Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights. A ZAC comment was received from the Office of Planning dated November 15, 2004, a copy of which is attached hereto and made a part hereof.

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#### **Interested Persons**

Appearing at the hearing on behalf of the special hearing request were Robert McGrain, Sabrina Grato, Sylvan Cornblatt, Andrew Wendler, Steven Cornblatt and Rick Richardson on behalf of the Petitioner. Matthew H. Azrael, Esquire represented the Petitioner. There were no citizens or protestants at the hearing. People's Counsel entered their appearance in the case.

#### Findings of fact and conclusions of law

Petitioner's testimony indicated that the subject property consists of 4,234 sq. ft. of land in two separate parcels. The front parcel is zoned BL and the rear parcel zoned D.R.3.5. The BL property is improved with a small shopping center fronting on Reisterstown Road in which Enterprise Car Rental would like to lease 1,250 ft. of space for its office and service operations. Mr. Azrael explained that the B.C.Z.R. does not have a specific designation for a car rental agency but that the Zoning Office believes these agencies fall under the larger category of automotive service garage under Section 230.13 of the regulations, which are allowed by special exception. He proffered that as a car rental agency the company does no repair or servicing of its automobiles. However, it does some car washing, vacuuming and cleaning of returned vehicles. These vehicles are stored overnight for later rental. Because of this need to store vehicles, the center owner proposes to build a parking lot behind the center on a separate parcel zoned DR 3.5 that he also owns. See Petitioner's Exhibit 1. This in turn triggers the Petitioner's request for variances for Residential Transition Area requirements.

The Petitioner also recognized that the Planning Office does not favor its request regarding the rear parking lot and instead wants vehicles from the rental car agency stored solely on the commercial site in the seven spaces shown on Petitioner's Exhibit 1. This plan is known as "alternative A". The Petitioner, however, notes several advantages for the community in allowing the rear parking lot including screening the adjacent homes from the several

commercial uses along Reisterstown Road. In addition, Mr. Azrael pointed out that Enterprise will not rent the space in the center under the constraints of Alternative A. There are 18 parking spaces proposed in the rear lot.

Mr. Azrael noted that the center would provide 71 parking spaces if the rear lot were allowed and of course 53 spaces under Alternative A. By County parking standards for service garages and the other commercial uses in the center, 46 spaces are required. Of this number seven spaces are required for the rental car agency under the B.C.Z.R.

He also pointed out that the rear lot is oddly shaped and that, although the owner has offered it for sale for several years, there have been no buyers. Consequently, he proffered there is no practical use which can be made of the property as a residence. Rather, the Petitioner proposes to build a privacy fence and landscape the proposed rear parking lot to screen the adjacent residences from not only the back of the owner's commercial strip but also the tune and lube business adjacent to the strip. This screening would be 13 feet wide at its most narrow portion in lieu of the 50 foot buffer and 75 foot setback required by the regulations for an RTA. Mr. Azrael indicated that the rear lot was nearly triangular in shape and consequently there was essentially no area on the rear lot which would meet the 75 foot setback line. While there is a small area (shown in blue ink on Petitioner's Exhibit 1) which would comply with the 50 foot buffer requirement, that area is not sufficiently large enough to park the number of vehicles required by Enterprise. As a result, the Petitioner's plan for a rear parking lot does not comply with the RTA regulations.

In addition, the Petitioner requests approval of a special exception for an automobile service garage for the bay that Enterprise proposes to rent in the shopping center and seven parking spaces behind the center shown as cross hatched in Petitioner's Exhibit 1. Testimony was proffered that this use would have no detrimental impact on the community and that the use

would meet all the criteria of Section 501.2 of the B.C.Z.R. regarding special exceptions. Mr. Azrael pointed out that no vehicle repairs would be done on site so that the impact on the neighborhood is nothing like the normal service garage. This is simply a matter of minor cleaning of vehicles and storing them for rental when customers order such. Again, he pointed out that in spite of numerous rental car agencies in the County, the B.C.Z.R. has no appropriate designation for these uses as a result of which they fall by default under the auto service garage category.

Finally the Petitioner requests approval by special hearing of business parking in a residential zone as allowed under Section 409.8 of the B.C.Z.R.. In particular, the Petitioner requests to be allowed to park cars from the rental agency on the rear lot. He explained that although the center could provide sufficient parking by code for all shopping center users including the car rental agency, Enterprise's experience is that they need additional parking beyond that specified by the regulations. They want to isolate their vehicles from those owned by customers of the other center stores. Again, Mr. Azrael proffered that if the rear lot is not allowed as a parking lot, Enterprise will not enter into the lease with the owner.

The Planning Office noted that the rear lot was the subject of a request by the owner in the 2000 Comprehensive Mapping Process to change the zoning from DR to BL so that the owner could have access from the shopping center parking lot to the street behind it (Montrose Avenue). Apparently the request met substantial community opposition and was denied by the Council. In order to better protect the stored rental cars, Mr. Cornblatt pointed out that he was specifically not requesting access to Montrose Avenue in this request. All such vehicles would have access to public roads only through the shopping center parking lot.

#### Findings of Facts and Conclusions of Law

I agree with Enterprise's assessment of its needs for parking beyond that specified by the regulations. I mentioned at the hearing the awful situation in a similar strip shopping center on Security Boulevard which leases space to a rental car agency. Rental cars are often double stacked in front of vehicles of customers of the other stores while customers of the rental agency load and unload. I agree that these agencies really do need their own spaces separated from spaces where the other store customers can park.

From a zoning standpoint I agree that while these uses should be allowed by special exception because of their impact, placing these uses in the category of automobile service garage is at least awkward. As the Petitioner noted in this case, these uses do not repair vehicles or store wreck vehicles or parts of vehicles that one ordinarily would see in the normal service garage. So from this standpoint the regulations are too harsh. However, from a parking standpoint 5 spaces per 1000 sq. ft. is in my view inadequate. Again, I agree with Enterprise that isolated parking substantially above the required parking is badly needed.

Having said all that the question presented are as follows:

#### Special Exception

The request for special exception is filed pursuant to Section 230.13 which lists service garage as a special exception in this BL zone. There will be no vehicle repair or storage of inoperable vehicles which the normal service garage would have. Consequently, I find that the use of this bay in the shopping center as a service garage (car rental agency) and the seven spaces behind the center reserved for this use will not adversely affect the surrounding community. I further find that the Petitioner meets all the criteria lists in Section 501.2 of the B.C.Z.R. Consequently, I will grant the special exception but for the use as a rental car agency only. If a

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full service garage is ever proposed for this same space in the center, a public hearing to modify this special exception is required.

#### Special Hearing

Similarly, I will grant the special hearing to allow business parking on the rear lot in a residential zone per Section 409.8.B of the B.C.Z.R. subject to compliance with Section 409.7.B.2. I will also grant parking for the proposed service garage (rental vehicles in operating condition only) in the parking permitted in the residential zone as shown on Petitioner's Exhibit 1. I note that the request in 2000 for a change in zoning from DR to BL, which the Council denied, is substantially different from this request. The zoning here does not change but remains DR. There is no intrusion of commercial zoning into the adjacent residential neighborhood which could trigger more requests for commercial zoning. The lot has functioned as a buffer separating the commercial uses along Reisterstown Road from the adjacent neighborhood. The Petitioner proposes to improve this function by effectively screening the neighborhood from both the center and the tune and lube business. The Petitioner of course gets some limited use of his residentially zoned property.

I am concerned that parking on the rear lot could lead to nuisances for the adjacent residences. Therefore, I will require the Petitioner to prepare and submit to the Baltimore County Landscape Architect for his approval a landscape plan for screening the parking lot and nearby commercial uses from the adjacent residential uses. The screening may be exactly as proposed by the Petitioner or may be more extensive as the Landscape Architect requires, but in any case shall meet the requirements for a Class A Landscape Plan pursuant to Section 1B01.B.1.d.3. In addition, the lighting shall prevent spillage of lights on the parking lot in accord with Section 1B01.B.1.e.4. All washing, cleaning, and vacuuming of rental vehicles

shall be conducted on the parcel zoned BL and not on the rear parking lot. There shall be no outdoor paging system or speakers on or for the rear parking lot.

#### <u>Variance</u>

The Petitioner requests a variance from the Section 1B01.1.B.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a residential transition area setback and buffer of as little as 13 ft. in lieu of the required 50 ft. buffer and 75 ft. setback, respectively. There is essentially no area of the rear lot which is more than 75 feet from both the DR 3.5 zoned boundaries along the north and east property lines. There is no way for the Petitioner to meet this requirement and use the rear lot.

The buffer should be 50 feet wide. However, because of the odd shape of the DR parcel, the RTA regulations pose a severe challenge to using the area for a parking lot and simultaneously meeting the requirements. It is clear from the testimony and evidence presented that special circumstances or conditions exist on the premises that are peculiar to the land or structure that is the subject of the variance request. I also find that it would be a hardship or practical difficulty for the Petitioner to provide the required buffer width. I find there will be no detriment to the community if the Petitioner meets all the screening and landscaping required for a Class A landscape plan. In fact, this screening should improve the neighborhood by buffering the commercial uses along Reisterstown Road.

Pursuant to the advertisement, posting of the property, and public hearing on these petitions held, and for the reasons given above, the requested relief shall be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this day of December, 2004, that the special exception requested pursuant to Section 230.13 of the B.C.Z.R., to permit an automotive service garage (car rental facility only) in a BL zone, be and is hereby GRANTED, and any other use of this special exception as a

automotive service garage other than use by a rental car company shall be subject to further public hearing and approval by this Commission: and

IT IS FURTHER ORDERED, that the request for special hearing relief requested pursuant to special hearing to permit business parking in a residential zone per Section 409.8.B of the B.C.Z.R. subject to compliance with Section 409.7.B.2 and to permit parking for the proposed service garage (rental vehicles in operating condition only) in the parking permitted in the residential zone, be and is hereby GRANTED; subject to the following conditions:

- 1. The Petitioner shall prepare and submit to the Baltimore County Landscape Architect for his approval a landscape plan for screening the parking lot and nearby commercial uses from the adjacent residential uses. The screening may be exactly as proposed by the Petitioner or may be more extensive as the Landscape Architect requires but in any case shall meet the requirements for a Class A Landscape Plan pursuant to Section 1B01.B.1.d.3.
- 2. The Petitioner shall insure that the lighting shall prevent spillage of lights on the parking lot in accord with Section 1B01.B.1.e.4.
- 3. The Petitioner shall insure that all washing, cleaning, and vacuuming of rental vehicles shall be conducted on the parcel zoned BL and not on the rear parking lot.
- 4. The Petitioner shall be prohibited from having an outdoor paging system or speakers on or for the rear parking lot.

IT IS FURTHER ORDERED, that the variance requested from Section 1B01.1.B.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a residential transition area setback and buffer of as little as 13 ft. in lieu of the required 50 ft. buffer and 75 ft. setback, respectively, be and is hereby GRANTED.

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

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

VM:raj



# Petition for Special Hearing

#### to the Zoning Commissioner of Baltimore County

for the property located at 9619 Reisterstown Road which is presently zoned BL & D.R. 3.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

Special hearing to permit business parking in a residential zone per section 409.8.B subject to compliance with section 409.7.B.2.

Special hearing to permit parking for the proposed service garage (rental vehicles in operating condition only) in the parking permitted in the residential zone.

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Case No. <u>05-17</u>	16-SPHX	, ,	UNAVAILABLE FOR H		5/04
			OFFICE USE ONLY ESTIMATED LENGTH OF HEARING		
ity	State	Zip Code	City	State	Zip Code
Address Lowson	MD	Telephone No. 21286	Address		Telephone No.
101 E. Chesapeake Av	e., 5th F1.	(410) 821-6800			
Azrael, Gann & Fra	nz, LLP	<del> </del>	Matthew H. Azra	nel	
Signature		· · · · · · · · · · · · · · · · · · ·	Representative to be		∠ip oods
Matthew H. Azrael Name - Type or Print?			Owings Mills City	MD State	21117 Zip Code
Attorney For Petitione	r:		P.O. Box 364 Address		Telephone No.
City	State	Zip Code	Signature	<del></del>	· · · · · · · · · · · · · · · · · · ·
Linthicum	MD	Telephone No. 21090	Namé - Type or Print		
701 Wedeman Avenue		Talantana Ma			<del></del>
Name - Type or Print  Signature	endler		Name - Type or Print Signature		
Enterprise Leasing	Company of	Baltimore	Sylvan L. Cornbla	att	,
Contract Purchaser/Lessee:		Legal Owner(s):	Legal Owner(s):		
			I/We do solemnly declare a perjury, that I/we are the least the subject of this Petitic	egal owner(s) of the	ne penalties of property which



# Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 9619 Reisterstown Road

which is presently zoned BL & D.R. 3.5

I/We do solemnly declare and affirm, under the penalties of

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

Special exception per section 230.13 to permit an automotive service garage (car rental facility) in a BL Zone.

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Exception, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Contract Purchaser/Lessee: Legal Owner(s): Enterprise Leasing Company of Baltimore Sylvan L. Cornblatt Name - Type or Print Name - Type of Print Signature Signature 701 Wedeman Avenue Address Telephone No. Name - Type or Print Linthicum MD21090 City State Zip Code Signature Attorney For Petitioner: P.O. Box 364 Telephone No. Address Matthew H. Azrael Owings Mills MD 21117 Name - Type on Bring Zip Code City State Representative to be Contacted: Signatyre V Azrael, Gann & Franz, LLP Matthew H. Azrael Company Name Chesapeake Ave. 5th F1. (410) 821-6800 Aceress Telephone No. Telephone No. Address wson MD21286 State State ZIp Code City Zip Code OFFICE USE ONLY ESTIMATED LENGTH OF HEARING 05-176-SPHXA UNAVAILABLE FOR HEARING Date 10 Reviewed By REU 09|15|98



# Petition for Variance

#### to the Zoning Commissioner of Baltimore County

for the property located at 9619 Reisterstown Road which is presently zoned BL & D.R. 3.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part sereof, hereby petition for a Variance from Section(s)

Variance in accordance with Section 1B01.1.B.1 to permit a residential transition area setback of as little as 13 feet in lieu of the required 50 feet buffer and 75 foot setback, respectively.

f the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship r practical difficulty)

Commercial property is split-zoned. No practical residential use.

roperty is to be posted and advertised as prescribed by the zoning regulations.
or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning gulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

ontract Purchaser/Lessee:			Legal Owner(s):		
terprise Leasin	g Company of	Baltimore	Sylvan L. Cornblat	t de la	•
me - Type or Print  nature	landler	· · · · · · · · · · · · · · · · · · ·	Name - Type or Print		
năture			Signature	Con Contraction of the Contracti	
l Wedeman Avenu	e				
iress		Telephone No.	Name - Type or Print		
.nthicum	MD	21090			
	State	Zip Code	Signature		<del></del>
torney For Petitio	ner:		P.O. Box 364		
			Address		Telephone No.
Matthew H. Az	<b>r</b> ael		Owings Mills	MD	21117
ne - Type or Print		· · · · · · · · · · · · · · · · · · ·	City	State	Zip Code
nature			Representative to be	Contacted:	
rael, Gamp & Fr	anz, LLP		Matthew H. Azrael		
npany	<del></del>		Name	***************************************	
1 E. Chesapeake	Avenue, 5th	F1. (410) 821-68	800		•
ress	· · · · · · · · · · · · · · · · · · ·	Telephone No.	Address		Telephone No.
wson	MD	21286			'
	State	Zip Code	City	State	Zip Code
			OFFICE I	USE ONLY	
se No	-176-5P	WXA	ESTIMATED LENGTH OF	F HEARING	
136 MU	((0))		UNAVAILABLE FOR HEARING		
V 9/15/98		Reviewed By	Date	1610A	

730 W. Padonia Road, Suite 101 Cockeysville, Maryland 21030

410-560-1502, fax 410-560-0827

#### SPECIAL HEARING AND VARIANCE ZONING DESCRIPTION 9619 REISTERSTOWN ROAD 3<sup>RD</sup> ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

BEGINNING FOR THE SAME at a point on the south side of Montrose Avenue 160 feet north of the intersection with Reisterstown Road for the following course and distance: (1) North 86 degrees 39 minutes 40 seconds East 116.5 feet, (2) South 03 degrees 20 minutes 20 seconds East 150.0 feet, (3) South 86 degrees 39 minutes 40 seconds West 26.0 feet, (4) North 34 degrees 34 minutes 58 seconds West 113.1 feet, to the place of beginning for the Special Hearing and Variance.

Containing an area of 10,686 square feet or 0.245 acres, more or less.



730 W. Padonia Road, Suite 101 Cockeysville, Maryland 21030

410-560-1502, fax 410-560-0827

# SPECIAL EXCEPTION ZONING DESCRIPTION 9619 REISTERSTOWN ROAD 3<sup>RD</sup> ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

BEGINNING FOR THE SAME at a point on the East side of Reisterstown Road at the centerline intersection of Harden Avenue; running northerly along Reisterstown Road for the following course and distance: (1) North 48 degrees 37 minutes 20 seconds West 77 feet, (2) thence leaving Reisterstown Road, North 41 degrees 22 minutes 40 seconds East 22 feet plus or minus to the front of the existing building, to the point of beginning for the area of special exception. Thence, (1) North 48 degrees 37 minutes 20 seconds West 20.00 feet, (2) North 41 degrees 22 minutes 40 seconds East 62.50' feet, (3) North 48 degrees 37 minutes 20 seconds West 81.00' feet, (4) North 41 degrees 22 minutes 40 seconds East 51.84 feet, (5) South 34 degrees 10 minutes 20 seconds East 38.21 feet, (6) South 41 degrees 22 minutes 40 seconds West 24.31 feet, (7) South 48 degrees 37 minutes 20 seconds East 69.00 feet, (8) South 41 degrees 22 minutes 40 seconds West 5.00 feet, (10) South 41 degrees 22 minutes 40 seconds East 62.50 feet, to the place of beginning for the Special Exception

Containing an area of 4,234 square feet or 0.097 acres, more or less.



05-176-SPHXA

#### NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County by authority of the Zoning Act and Requiations of Baltimore County will hold a public nearing in Towson Marylatic on the property Identified herein as follows:

Case: #05-176-8PHXA

B619 Relaterstown Road

N/east side of Relaterstown Road, 58 feet n/west of Harden Avenue

3rd Election District — 2nd Councilmanic District

Lagai Owner(s): Sylvan L. Combists

Contract Purchasers, Enterprise Leasing Company of Baltimore

Baltimore

Social Exception: to permit an automotive service

Special Exception: to permit an automotive service parage in a BL zone. Variance: to permit a residential transition area setback and buffer as little as 13 feet in ley of the required 50 feet buffer and 75-foot setback respectively. Special Hearing: to parmit business parking a residential zone per section 409.8 B subject to compliance with section 409.7 B.2. To permit parking for the proposed service garage (rental vehicles in operating condition only) in the parking permitted in the residential zone.

Hearing: Tuesday. November 23, 2004 of 9:00 a.m. in

Hearing: Tuesday, November 28, 2004 at 9:00 a.m. in Room 106, County Office Building, 111 W. Chesapaake Avenue.

WILLIAM WISEMAN
Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

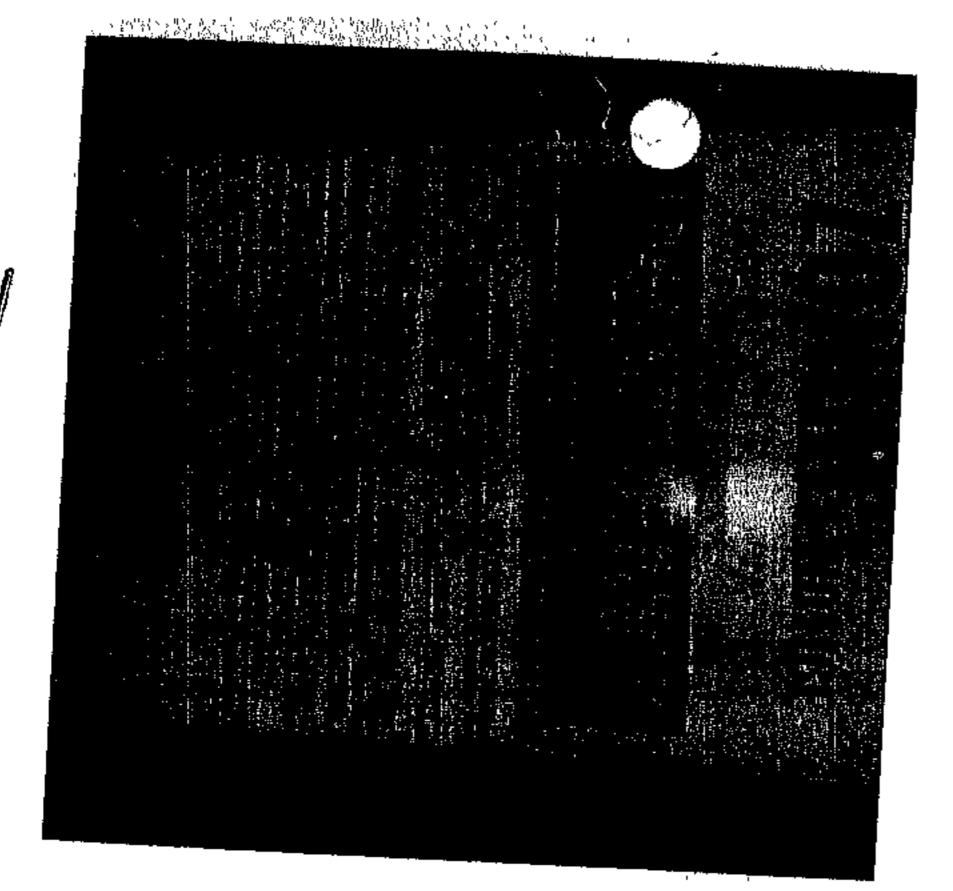
(2) For Information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391, JT-11/652 Nov. 9

#### CERTIFICATE OF PUBLICATION

11/11,2004
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
on 11/9,2004.
The Jeffersonian
Arbutus Times
☐ Catonsville Times
☐ Towson Times
Owings Mills Times
☐ NE Booster/Reporter
☐ North County News

OVERTISING

•



Towson, магунии дало-

Ladies and Gentlemen:

The sign(s) were posted on \_

ATTN: Kristen Matthews {(410) 887-3394}

E OF POSTING RE: Case No.: 05-176-5PHXA Petitioner/Developer: ENTERPRISE Date of Hearing/Closing: 11/23/04 This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: 9619 REISTERSTOWN RD (Month, Day, Year) Sincerely, (Signature of Sign Poster) **SSG Robert Black** (Print Name) 1508 Leslie Road (Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

### Department of Permits and Development Management

Development Processing County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204



#### Baltimore County

James T. Smith, Jr, County Executive Timothy M. Kotroco, Director

October 21, 2004

#### NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 05-176-SPHXA

9619 Reisterstown Road

N/east side of Reisterstown Road, 58 feet n/west of Harden Avenue

3<sup>rd</sup> Election District – 2<sup>nd</sup> Councilmanic District

Legal Owners: Sylvan L. Cornblatt

Contract Purchasers: Enterprise Leasing Company of Baltimore

Special Exception to permit an automotive service garage in a BL zone. <u>Variance</u> to permit a residential transition area setback and buffer as little as 13 feet in lieu of the required 50 feet buffer and 75-foot setback, respectively. <u>Special Hearing</u> to permit business parking a residential zone per section 409.8.B subject to compliance with section 409.7.B.2. To permit parking for the proposed service garage (rental vehicles in operating condition only) in the parking permitted in the residential zone.

Hearing: Tuesday, November 23, 2004 at 9:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue, Rm. 106

Timothy Kotroco

Director

TK:klm

C: Matthew H. Azrael, 101 E. Chesapeake Avenue, 5<sup>th</sup> Floor, Towson 21286 Sylvan L. Cornblatt, P.O. Box 364, Owings Mills, 21117 Enterprise Leasing Co. of Baltimore, 701 Wedeman Avenue, Linthicum 21090

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, NOVEMBER 8, 2) 04.

- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Visit the County's Website at www.baltimorecountyonline.info

TO: PATUXENT PUBLISHING COMPANY

Tuesday, November 9, 2004 Issue - Jeffersonian

Please forward billing to:

Enterprise Rent-A-Car 701 Wedeman Avenue Linthicum, MD 21090 410-412-4600

#### **NOTICE OF ZONING HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 05-176-SPHXA

9619 Reisterstown Road

N/east side of Reisterstown Road, 58 feet n/west of Harden Avenue

3<sup>rd</sup> Election District – 2<sup>nd</sup> Councilmanic District

Legal Owners: Sylvan L. Cornblatt

Contract Purchasers: Enterprise Leasing Company of Baltimore

Special Exception to permit an automotive service garage in a BL zone. <u>Variance</u> to permit a residential transition area setback and buffer as little as 13 feet in lieu of the required 50 feet buffer and 75-foot setback, respectively. <u>Special Hearing</u> to permit business parking a residential zone per section 409.8.B subject to compliance with section 409.7.B.2. To permit parking for the proposed service garage (rental vehicles in operating condition only) in the parking permitted in the residential zone.

Hearing: Tuesday, November 23, 2004 at 9:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue, Rm. 106

WILLIAM WISEMAN

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

## DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

#### ZONĮNG REVIEW

### ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing

Zoning Review will ensure that the legal requirements for advertising are satisfied However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

Item Number or Case Number 05-176-5PHXA	
Petitioner: CORNBLATT	
Address or Location: 9619 REISTERS TOWN ROA	D
PLEASE FORWARD ADVERTISING BILL TO Name: <u>ENTERPRISE DENT-A-CAR</u>	
Name: ENTERPRISE BENT-A-CAR	

#### Department of Permits a Development Management

Development Processing County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204



#### Baltimore County

James T. Smith, Jr., County Executive Timothy M. Kotroco, Director

November 17, 2004

Matthew H. Azrael Azrael, Gann & Franz, LLP. 101 E. Chesapeake Avenue, 5th Fl. Towson, Maryland 21204

Dear Mr. Azrael:

RE: Case Number: 05-176-SPHXA, 9619 Reisterstown Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 6, 2004.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,
U. Call Rilla D

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: clb

Enclosures

People's Counsel C: Enterprise Leasing Company of Baltimore 701 Wedeman Avenue Linthicum 21090 Sylvan L. Cornblatt P.O. Box 364 Owings Mills 21117



Visit the County's Website at www.baltimorecountyonline.info

m 11/23

#### BALTIMORE COUNTY, MARYLAND

#### INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

DATE: November 15, 2004

RECELO

NOV 1 6 2.4

**SUBJECT:** 

9619 Reisterstown Road

ZONING CON

VFR

Item Number:

**INFORMATION:** 

5-176

Petitioner:

Sylvan L. Cornblatt

Zoning:

BL/DR 3.5

Requested Action:

Special Exception/Special Hearing/Variance

#### SUMMARY OF RECOMMENDATIONS:

The petition in question is a request for a Special Exception for an automotive service garage, car rental agency within a portion of an existing two story retail/office building located at 9619 Reisterstown Road. There is an additional request (1 Montrose Avenue) for a Special Hearing for parking in a DR zone and a Residential Transition Area (RTA) setback and buffer variance of 13 feet in lieu of 75 feet and 50 feet respectively. It should be noted that 1 Montrose Avenue requested rezoning from DR 3.5 to BL in the 2000 Comprehensive Zoning Map process and was not rezoned.

The Office of Planning supports Alternative A, which shows the special exception and vehicle storage entirely within the BL zone and no parking on Montrose Avenue. This office recommends denial of the special hearing and variance. Parking on this site would be intrusive for the residential neighborhood along Montrose Avenue. It represents a significant commercial encroachment, which has the potential to change the character of that neighborhood.

Prepared by:

Division Chief:

AFK/LL:MAC:

#### BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO:

Tim Kotroco

FROM:

John D. Oltman, Jr

DATE:

November 16, 2004

SUBJECT:

Zoning Items # See List Below

Zoning Advisory Committee Meeting of October 18, 2004.

The Department of Environmental Protection and Resource Management has no comments on the following zoning items:

05-171 04-179 04-180

04-181

04-182

Reviewers:

Sue Farinetti, Dave Lykens

#### Fire Department

700 East Joppa Road Towson, Maryland 21286-5500 Tel: 410-887-4500



#### Baltimore County

James T. Smith, Jr., County Executive John J. Hohman, Chief

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204

October 19, 2004

ATTENTION: Zoning Review planners

Distribution Meeting of: October 18, 2004

Item No.:

170, 171, 173, 175, (176)

178, 180-182

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

The Fire Marshal's Office has no comments at this time.

LIEUTENANT JIM MEZICK Fire Marshal's Office PHONE 887-4881 MS-1102F

cc: File



Visit the County's Website at www.baltimorecountyonline.info



Robert L. Ehrlich, Jr., Governor Michael S. Steele, Lt. Governor

Robert L. Flanagan, Secretary Neil J. Pedersen, Administrator

JMP

#### Maryland Department of Transportation

RE:

Date: 11.9.64

**Baltimore County** 

Item No. 176

Ms. Kristen Matthews
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

Dear Ms. Matthews:

We have reviewed the referenced item and have no objection to approval. Our review has determined that no construction is required within the State Highway Administration's right-of-way.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

Steven D. Foster, Chief

1. J. Hredle

Engineering Access Permits Division

#### BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

DATE: November 3, 2004

TO:

Timothy M. Kotroco, Director

Department of Permits & Development Management

FROM

Robert W. Bowling, Supervisor Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For October 25, 2004

Item Nos. 170, 171, 173, 175, 176, 178, 179, 180, 181, and 182

The Bureau of Development Plans Review has reviewed the subject-zoning items, and we have no comments.

RWB:CEN:jrb

cc: File

RE: PETITION FOR SPECIAL HEARING \* BEFORE THE SPECIAL EXCEPTION & VARIANCE 9619 Reisterstown Road; NE/side \* ZONING COMMISSIONER Reisterstown Rd, 58' NW of Harden Avenue 3<sup>rd</sup> Election & 2<sup>nd</sup> Councilmanic Districts \* FOR Legal Owner(s): Sylvan L. Cornblatt Contract Purchaser(s): Andrew Wendler \* BALTIMORE COUNTY Petitioner(s) \* 05-176-SPHXA

#### **ENTRY OF APPEARANCE**

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/

documentation filed in the case.

PÉTER MAX ZIMMÉRMAN

People's Counsel for Baltimore County

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson MD 21204

Towson, MD 21204 RECEIVED (410) 887-2188

OCT 22 2004

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 22<sup>nd</sup> day of October, 2004, a copy of the foregoing. Entry of Appearance was mailed to Matthew H. Azrael, Esquire, Azraul, Gann & Franz, LLP, 101 E. Chesapeake Avenue, 5<sup>th</sup> Floor, Towson, MD 21286, Attorney for Petitioner(s).

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CASE NAME 46M KOST. RD CASE NUMBER 05-176-SPHXA DATE 11/23/04

#### PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
ROBERT MERAIN	8817 Dearbon Dr.	Beltmane MD, 21236	Rob. megrain perac. con
Sabrina Grato	170/angdon Form Cir	Oderton, m1) 21113	Sabrina GRATORARAC
54/van Cornblatt	11902 Klauvogen Rd	Reistaustown, Md 21236	Scornblade +SCU. Det Com
AWDREW WENDLER	1480 COVENTRY MOADOWS DR.	SYKESVILLE, MD 21784	ANDREW WENDLER & ERAC.CO
Steven Cornblatt	15 Gray Squirrel Ct.	Lutherville MD 21093	scornblutt etroutsegall
RICK RICHARDSON	730 W PADONIA RD	COCKEYSVILLE MD 21030	RENG @ FIVESTONES. COM
MATTHEW AZZAEC	101 E. Cheanpeake Ave. 5th FR	Towson, ME 21286	MAZRAGL@AGFLAW.COW
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701 Wedeman Ave Linthicum, MD 21090 410-412-4620 410-412-4697 Fex

Homeowner 10 Montrose Avenue Owings Mills, Maryland 21117

November 9, 2004

Dear Homcowner,

My name is Rob McGrain. I am an Area Manager with Enterprise Rent-A-Car based in Owings Mills. Recently, I have undertaken a project that would place a Enterprise Branch location in the Valley Place II Center at 9619 Reisterstown Road in Owings Mills.

I am writing this letter to you because, as a part of our project, we will need additional parking. There is a vacant lot near your property at 1 Montrose Ave. We have initiated a process to develop that parcel into a parking lot that will be attached to the shopping center. The lot will only be accessible via the shopping center and will not be accessible from Montrose Ave. So, the lot will not have an effect on traffic in your neighborhood. Also, our plan includes a tasteful 6 foot "board" fence with a line of bushes/trees to mask the lot from the view on Montrose Ave.

In the next week, I would like to meet with you, at your convenience, to discuss our plans and to let you know that our intentions are to create an attractive parcel that you, and the neighborhood, can feel good about.

I hope you will take the time to meet with me. However, if meeting is inconvenient for you, would you please consider discussing this project with me over the telephone. My telephone number is (443) 506-4597.

Thank you for taking the time to consider this and I look forward to meeting/talking with you.

Sincerely,

Rob McGrain

Arca Rental Manager

Rob McGr

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AP 10

IN RE: PETITION FOR SPECIAL EXCEPTION

NE/S Reisterstown Road, 184' NW of the c/l of Harden Lane

(9627 Reisterstown Road)
3rd Election District
3rd Councilmanic District

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

Case No. 97-498-X

Sylvan Cornblatt, Legal Owner;
Tan n Nail Boutique, LLC, Contra

Tan n Nail Boutique, LLC, Contract Lessee Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of a Petition for Special Exception for that property known as 9627 Reisterstown Road, located in the vicinity of Greenspring Valley Road in Owings Mills. The Petition was filed by the owner of the property, Sylvan Cornblatt, and the Contract Lessee, Tan n Nail Boutique, LLC, by Tien Feusner and Grant B. Feusner, Corporate Owners, through their attorney, Vadim A. Mzhen, Esquire. The Petitioners request a special exception to allow a community building (tanning salon) on the subject property, located in a B.L. zone. The subject property and relief sought are more particularly described on the site plan submitted, which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Sylvan Cornblatt, property owner, Mitchell Cornblatt, Grant Feusner, Contract Lessee, and Vadim Mzhen, Esquire, attorney for the Petitioners. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property consists of a gross area of 0.73 acres, more or less, zoned B.L. and is improved with a one-story strip shopping center which houses a number of office and retail uses, including a carry-out restaurant, veterinarian, day-care facility, hair salon, a tailor, and a tanning salon, which is the

subject of this request. Testimony indicated that a tanning salon has existed on the subject site in the location shown on Petitioner's Exhibit 1 for the past 17 years. However, the ownership of the tanning salon has changed hands and the Petitioner must seek a special exception in order for the tanning salon use to continue operating at this location.

It is clear that the B.C.Z.R. permits the use proposed in a B.L. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. Testimony indicated that a tanning salon has existed on the property for the past 17 years without creating any detriment to the neighborhood and to allow such use to continue would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special exception should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 17th day of June, 1997 that the Petition for

Baltimore County this 17th day of June, 1997 that the Petition for Special Exception to allow a community building (tanning salon) on the subject property, located in a B.L. zone, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that pro-

ceeding 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

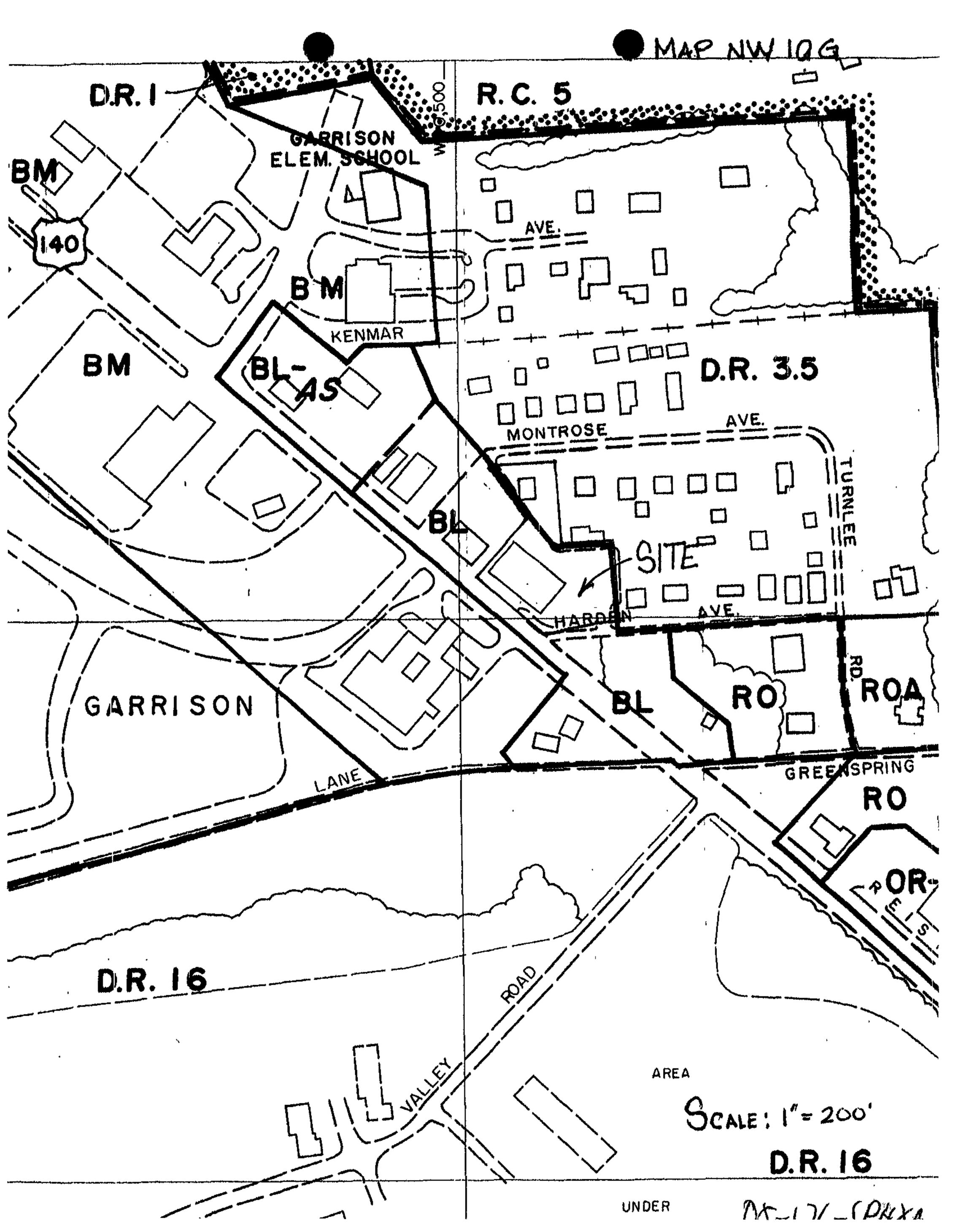
reversed, the relief granted herein shall be rescinded.


RETMORDED IN PORTOCO

Deputy Zoning Commissioner

for Baltimore County

TMK:bjs





GENERAL NOTES:

I. OWNER: SYLVAN L. CORNBLATT

P.O. BOX #364 OWINGS MILLS, MD 21117 2. DEVELOPER: ENTERPRISE RENT-A-CAR #701 WEDEMAN AVENUE

LINTHICUM, MD 21090 3. AREA OF SPECIAL HEARING: 10,686 Sq.Ft. OR 0.245 Ac.± 4. AREA OF SPECIAL EXCEPTION: 2,492 SF. OR 0.057 Ac.±

LOCATIO1

SCALE: 1" ==

5. EXISTING BUILDING: 7,500 SF . PROPOSED BUILDING: NO CHANGE PROPOSED

WATER: PUBLIC SEWER: PUBLIC 8. NO 100 YR FLOODPLAINS ON SITE

J. PARKING TABULATION:

<u>AREA</u> 1,250 SF REQUIREMENT CARRY-OUT RESTAURANT 5/ 1000 2,500 SF KARATE SCHOOL 1/ INSTRUCTOR 1,250 SF 1,250 SF TANNING SALON TAILOR/ALTERATIONS 1,250 SF ENTERPRISE RENT-

10. TOTAL REQUIRED: 11. PARKING PROVIDED: 71 SPACES. 12. SETBACKS: PROVIDED

13. DEED REF: 5705/771

14. TAX ACCOUNT NO. 1700001894 & #0319085377 15. COUNCILMANIC DISTRICT 2nd 16. REGIONAL PLANNING DISTRICT 313B

17. CENSUS TRACT 4037.01
18. WATERSHED JONES FALLS

19. ZONING: BL & D.R. 3.5 (PER 1"=200' ZONING MAP NW 20-G)

20. TAX MAP #67 PARCEL #214 & 80 21. USE PERMIT REQUIRED FOR PARKING IN THE D.R. 3.5 ZONE FOR BUSINESS USE.

22. PREVIOUS ZONING CASE:

#67-203 MAY 1, 1967 RECLASS FROM A R-10 ZONE TO A BL Z #85-338A JUNE 13, 1985 DENIED EXISTING SIGN IN PUBLIC RIGH ÖF-WAY TO REMAIN.

#97-498-X JUNE 17, 1997 GRANTED FOR USE OF A COMMUNITY (TANNING SALON) IN A BL ZONE. (NOT FOR SAME SPACE AS CUR 23. PREVIOUS PERMITS:

#617-87 INSURANCE OFFICE TO HAIR SALON. #1185 INTERIOR WORK

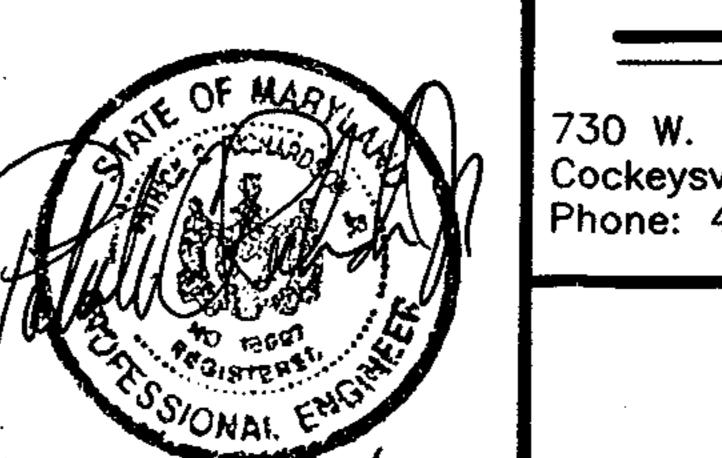
24. SPECIAL EXCEPTION PER SECTION 230.13 TO PERMIT AN AUTOMOTIVE SERVICE GARAGE (CAR RENTAL FACILITY) IN A BL ZON

25. FLOOR AREA:  $15,000 \div 46,876 = .32$ 26. IN CONFORMANCE WITH SECTION 405A, NO DAMAGED OR DISABLED SHALL BE STORED ON THESE PREMISES. ALL PARKING PAVED WITH DUSTLESS SURFACE.

27. ALL OF 1 MONTROSE AVENUE IS WITHIN THE RTA.

28 VARIANCE IN ACCORDANCE WITH SECTION 1B01.1.B.1 TO PERMIT A TRANSITION AREA SETBACK AND BUFFER OF AS LITTLE AS 13 FEET REQUIRED 50 FOOT BUFFER AND 75 FOOT SETBACK, RESPECTIVELY. 29. SPECIAL HEARING TO PERMIT BUSINESS PARKING IN A RESIDENTIAL ZONE PER SECTION 409.8.B SUBJECT TO COMPLIANCE WITH SECTION

SPECIAL HEARING TO PERMIT PARKING FOR THE PROPOSED SERVICE VEHICLES IN OPERATING CONDITION ONLY) IN THE PARKING PERMITT RESIDENTIAL ZONE.



# Richardson Engineeri

730 W. Padonia Road, Suite 101 Cockeysville, Maryland 21030 Phone: 410-560-1502 Fax: 410-560-0827

PLAN TO ACCOMPANY ZONING PETITION FOR

ENTERPRISE RENT-A 9619 REISTERSTOWN ROA MONTROSE AVENUE

3RD ELECTION DISTRICT BALTIMORE COUNT 10/4/04