IN RE: PETITION FOR SPECIAL HEARING SW/Corner of Compass Road and Martin Boulevard 15th Election District 7th Councilmanic District (2 Compass Road)

CCM Associates, LLC, Legal Owner
By: Richard Welkowitz, Member
and
CVS #2455-01/Essex Martin CVS, Inc.,
Lessee

* BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

CASE NO. 05-511-SPH

*

*

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Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

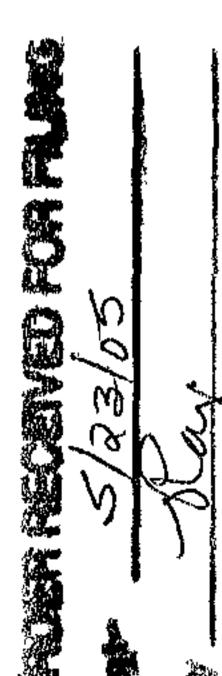
This matter comes before this Deputy Zoning Commissioner on a Petition for Special Hearing filed by the legal owner of the subject property, CCM Associates, LLC, by Richard Welkowitz and the lessee of the property, CVS #2455-01/Essex Martin CVS, Inc. The Petitioner is requesting a special hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve a modification of restriction number two (2) of the Order granted July 22, 1998 in Case No. 98-384-SPHA.

The property was posted with Notice of Hearing on May 4, 2005, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on May 3, 2005 to notify any interested persons of the scheduled hearing date.

Applicable Law

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 nonconforming 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.

Zoning Advisory Committee Comments

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: None.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing relief were Mike Barto, Alexandra Grimes and Irvin Nore on behalf of the Petitioner. Leslie Pittler, Esquire represented the Petitioner. Ken McDowell appeared in opposition to the request. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

The subject property is the present location of a CVS pharmacy located on the south side of Martin Boulevard at Compass Road. The store has been open for approximately six years after approval of the initial development plan and several iterations. Mr. Pittler indicated that as the result of negotiations with the Office of Planning leading to this Commission's decision in case no. 98-384-SPHA, Zoning Commissioner Schmidt granted the requested relief but imposed a condition limiting the hours of operation from 8:00 AM to 9:30 PM. The Petitioner would like this condition removed to be able to operate 24-hours a day.

In support of this request Mr. Pittler pointed out that the uses at this intersection have changed since the store was initially opened. Most significantly, the Petitioner's primary competition, Walgreen's, opened a similar store caddy corner across Martin Boulevard. He noted that the Walgreen's was not restricted as to hours of operation and now operates 24-hours a day to the great commercial disadvantage of the Petitioner. In addition, Mr. Pittler noted that

hours of operation were not issues in the prior case but the restriction resulted from a compromise with the community many of who were greatly opposed to the CVS store.

Ms. Grimes, the pharmacy supervisor for the store indicated that not being able to operate 24-hours a day meant that persons who needed perhaps an inhaler for an asthmatic condition could not fill that prescription during the night. She gave several similar examples of community needs for healthcare, which CVS could not provide to the great disadvantage of the community. She also indicated that her pharmacy sales were down and she believe many had gone to Walgreen's because they could offer 24-hour service.

Mr. Barto, regional sales manager for CVS, indicated that this store was at a competitive disadvantage because of the limited hours of operation and that if the trend continues CVS could close the store.

Mr. Pittler indicated that should the store close the BL zoning on the property would allow many obnoxious uses which would impact the community more than the CVS operating 24-hours a day. He also noted the careful analysis done by the prior Commissioner which did not show any adverse impact on the community because of 24-hour operation.

Jeff Long, Deputy Director of the Office of Planning, indicated that he recognizes that with the Walgreen's across the street he would not have recommended limitation on the hours of operation of this CVS store. He opined that it is unusual to limit hours of operation in these commercial zones and that he recognizes the competitive disadvantage that CVS faces at this location vis-a-vis Walgreen's which operates a similar store 24-hours a day. He admitted on cross-examination that nothing had changed on the subject side of Compass Road since the CVS opened and that there were still residences bordering the CVS site.

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In contrast, Mr. McDowell who lives behind this subject property indicated that he opposes any change to the hours of operation. He noted that the lights from the CVS store shine into his windows now but at least he has the nighttime hours to sleep. That is until the delivery tractor trailer trucks come to CVS at 4:00 AM making so much noise that it wakes him from sleep. He also noted that there are two other businesses on Compass Road next to the CVS store which do not have 24-hours operation. In addition, he opined that leading up to the earlier case, CVS pledged to monitor use of the property by youths but had failed to do so, to the detriment of both he and his neighbors. Finally, he pointed out that there are no homes close by the Walgreen's store across the street. However, at this location houses back up to the CVS store just as they had in 1999 when the zoning hearing was held for this case.

In response, Mr. Pittler indicated that he was willing to meet with Mr. McDowell to address any concerns he had, including lighting to the extent possible. When asked if the County Landscape Architect, Avery Harden, had been involved regarding the lighting complaints, Mr. McDowell indicated that Mr. Harden had been to his home and personally saw the problem but apparently was not able to remedy the problem. Mr. Pittler indicated his willingness to work with Mr. Harden but opposed any review and approval by him of the lighting on the premises.

Findings of Fact and Conclusions of Law

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The request for special hearing arises because the Petitioner would like to remove the restrictions on hours of operation. I can understand the substantial competitive disadvantage CVS feels since the Walgreen's opened with 24-hour operation across Martin Boulevard. I also recognize that 24-hour pharmacy service is an important contribution to the health and welfare of the community.

However, as Mr. McDowell points out nothing has changed on the CVS side of the street, apparently including the continuing problems with lighting. The Plat to Accompany the 1999 zoning case specifically required in a note that "All proposed lighting fixtures shall be arranged so as to reflect light away from adjacent residential sites". According to Mr. McDowell this was not done or was not effective.

As I mentioned at the hearing, there may be new technology or rearrangement of the lighting that would actually accomplish the requirement on the prior plan. I do not have the knowledge or skill to specify some new and better solution to the problem, but I would like Mr. Harden to take another look at the situation and apply his technical expertise to see what he can do. However, as this Commission regularly does, I will require the Petitioner, as a condition of approval, to submit a lighting plan to the Baltimore County Landscape Architect for his review and approval. No approval by the landscape architect would mean no 24-hours of operation. I want Mr. Harden to have full legal authority to solve this problem, if possible. I suspect that what lighting might have been reasonable for this site when the latest time of operation was 9:30 PM may not be reasonable for this site when the Petitioner will operate 24-hours a day. However, I also recognize that after investigation, Mr. Harden may find that what is presently there is as good as technology allows and that nothing further need be done by the Petitioner.

I will leave it to Mr. Pittler's sincere desire to cooperate with the adjacent property owners, to find some relief for them regarding the noise made by delivery trucks now supplying the site at 4:00 AM. I note that having a 24-hour operation may allow for some relief here not formerly available.

CHARLES CONTRACTOR

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

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this <u>29</u> day of May, 2005, that the Petitioner's request for special hearing from Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to remove restriction number two (2) of the Order granted July 22, 1998 in Case No. 98-384-SPHA, be and is hereby GRANTED subject to the following conditions:

1. Petitioner shall submit a lighting plan to the Baltimore County Landscape Architect for his review and approval which shall minimize to the extent possible light coming from the subject property onto adjacent residential properties considering 24-hour operation.

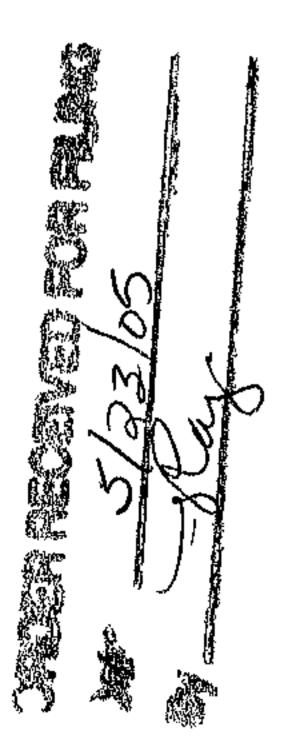
Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM:raj



Zoning Commissioner

Suite 405, County Courts Building 401 Bosley Avenue Towson, Maryland 21204 Tel: 410-887-3868 • Fax: 410-887-3468



Baltimore County

James T. Smith, Jr., County Executive William J. Wiseman III, Zoning Commissioner

May 20, 2005

Leslie M. Pittler, Esquire 25 Wandswoth Bridge Way Lutherville, Maryland 21093

> Re: Petition for Special Hearing Case No. 05-515-SPH Property: 2 Compass Road

Dear Mr. Pittler:

Enclosed please find the decision rendered in the above-captioned case. The petition for special hearing has been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy

Deputy Zoning Commissioner

JVM:raj Enclosure

c: Mike Barto
Alexandra M. Grimes
Irvin E. Nore
CVS Pharmacy
Calverton, MD 20904

Ken McDowell 801 Fuselage Avenue Baltimore, MD 21220



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

JA 8 131

IN RE: PETITION FOR VARIANCE SW/S of Kent Road, 575 ft. S centerline of Hyde Park Road 15th Election District 7th Councilmanic District (1420 Kent Road -Lot 176)

SW/S of Kent Road, 625 ft. S centerline of Hyde Park Road 15th Election District 7th Councilmanic District (1422 Kent Road -Lot 177)

Anthony R. Bialozynski, Sr. Petitioner

BEFORE THE

* ZONING COMMISSIONER

FOR BALTIMORE COUNTY

CASE NO. 05-010-A

CASE NO. 05-011-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

These matters come before this Zoning Commissioner at a public hearing for Petitions for Variance for two adjacent lots under common ownership. In Case No. 05-010-A, variance relief is requested for property known as 1420 Kent Road - Lot 176. The variance relief sought is from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a replacement dwelling on a lot with a width of 50 ft. in lieu of the minimum required 55 ft. In Case No. 05-011-A, identical relief is requested for 1422 Kent Road - Lot 177. Both properties are owned by Anthony R. Bialozynski, Sr. and the relief requested is more particularly shown on the plats to accompany the Petitions for Variance marked as Petitioner's Exhibit Nos. 1.

The matters were scheduled as separate properties and were scheduled for public hearing immediately after one another. That is, Case No. 05-010-A was scheduled for public hearing on August 31, 2004 at 11:00 a.m. and Case No. 05-011-A was scheduled for August 31, 2004 at 10:00 a.m. In view of the identical relief sought, the fact that the properties are adjacent and are under common ownership, the matters were considered contemporaneously.

Appearing at the hearing on behalf of the Petitioner was Vince Moskunas. No Protestants or others appeared in opposition to the hearing at either time.

DECEMBER FRANCE

Testimony and evidence indicated that the subject properties are adjacent lots in the subdivision known as "Hyde Park", located in the Back River area of eastern Baltimore County. Both lots are part of the plat, which was recorded for that subdivision in 1930. Both lots are 50 ft. wide and approximately 200 ft. deep, for a square footage of 10,000 sq. ft.

Lot No. 176 (1420 Kent Road) is presently approved with a single-family dwelling. Apparently, the house was built a number of years ago and is to be razed. It is anticipated that a new dwelling will be constructed as a replacement. The new dwelling will be 28 ft. x 46 ft. in dimension, zoned D.R. 5.5, and will observe all the required setbacks (front, side and rear) for a dwelling in a D.R. zone.

Lot No. 177 (1422 Kent Road) is unimproved and it has been used essentially over the years as a side yard for the existing dwelling. However, Mr. Bialozynski proposes the construction of a new single-family dwelling thereon. The new house will also be 28 ft. wide x 46 ft. in depth and will maintain all of the appropriate front, rear and side yard setbacks.

Relief is requested only to approve the 50 ft. wide lot. Mr. Moskunas indicated that many houses in the neighborhood are developed on 50 ft. wide lots. This representation was confirmed in a written comment from the Office of Planning, which indicated that the existing lot pattern in the neighborhood is a mixture of 50 ft. and wider lots. Thus, the proposal appears consistent with the locale. A particularly unique factor regarding this property and the request relates to an existing drainage and utility easement held by Baltimore County that crosses Lot No. 177. It was indicated that a storm drain is located within that easement. The easement runs at an angled manner from the center of the front of the lot to the side property line, as more particularly shown on the site plan. Due to this situation, it is necessary that the proposed dwelling on Lot No. 177 needs to be set back further from the road so that it does not interfere with that easement. In this regard, a ZAC comment was received from Robert Bowling on behalf of the

2 -



Bureau of Development Plans Review requesting that the house be set back a minimum of 110 ft. from the front property line so as to not interfere with the drainage easement. This recommendation is appropriate. Due to that requirement, I believe that the replacement house on Lot No. 176 should also be located further from the road than shown on the site plan. Relocating the house further from the road will provide a more consistent appearance for these two dwellings rather than having one house located significantly closer to the road than the immediate neighboring dwelling. Thus, as a condition of approval I will require that the replacement house on Lot No. 176 be set back 100 ft.

It is also to be noted that the property is subject to the Chesapeake Bay Critical Area regulations. Setting the houses back from the road 110 ft. on Lot No. 177 and 110 ft. on Lot No. 176 will result in a greater amount of impervious surface due to the driveway. If possible, the driveways and parking pads should be extended along the side of the house if possible. However, the property owner may chose to terminate the driveways in front of the house if the impervious surface limitations set out in Chesapeake Bay Critical Area regulations do not allow the extension.

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

THEREFORE, IT IS ORDERED, this And day of September, 2004, by this Zoning Commissioner, that the Petitioner's requests for variance from Section 1B02.3.C.1 of the B.C.Z.R., to permit a replacement dwelling on a lot with a width of 50 ft. in lieu of the minimum required 55 ft. (Case Nos. 05-010-A (1420 Kent Road - Lot 176) and to permit a proposed dwelling with a lot width of 50 ft. in lieu of the minimum required 55 ft. and to approve an undersized lot (Case No. 05-011-A (1422 Kent Road - Lot 177), be and they are hereby

DECEMBE

GRANTED, subject, however, to the following restrictions which are inditions precedent to the relief granted herein:

- 1. The Petitioner may apply for his building permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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 Petitioner would be required to return, and be responsible for returning, said properties to their original condition;
- 2. That the Petitioner shall be required to situated the replacement house on Lot No. 176 back 100 ft. and be required to situate the replacement house on Lot No. 177 to be set back 110 ft.
- 3. Compliance with the ZAC comments submitted by the Office of Planning dated August 2, 2004, a copy of which is attached hereto and made a part hereof. In addition, the Petitioner must submit building elevation drawings to the Office of Planning for their review and approval.
- 4. Compliance with any recommendations made by the Department of Environmental Protection and Resource Management (DEPRM) relative to the Chesapeake Bay Critical Area legislation and, therefore, driveways for these two properties may be constructed to end at the front building line instead of into the side yard to reduce impervious surface; and
- 5. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order; and

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

LAWRENCE E. SCHMIDT ZONING COMMISSIONER FOR BALTIMORE COUNTY

LES:raj



REV 9/15/98

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

A STATE A TANK				4
	for the property	located at $\underline{-}$	Compass Ro	ad
		which is pres	sently zoned BL	R10.5, RO
This Petition shall be filed with the Decorner(s) of the property situate in Baltime made a part hereof, hereby petition for County, to determine whether or not the 2 Amod. Acatron the 2 Amod. Acat.	ore County and which a Special Hearing up Zoning Commissioner د کے کے اس	s and Development is described in the nder Section 500.7 should approve	nt Management. The condesseription and plat attended of the Zoning Regulation	indersigned, legal ached hereto and ions of Baltimore
	·			
Property is to be posted and advertised at it, or we, agree to pay expenses of above Spezoning regulations and restrictions of Baltimore	icial Hearing, advantisis,	m markelimä men anade	urther agree to and are to w for Baltimore County.	be bounded by the
	•	I/We do solemnly perjury, that I/we a is the subject of th	declare and affirm, under the the legal owner(s) of the legal owner(s) of the legal owner(s) are the legal owner(s).	the penalties of e property which
Contract Purchaser/Lessee:) AA/	1: Brenna Jordan	Legal Owner(s):	
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Attorney For Petitioner:	•	120 Not	& Parte Divid	1717-569,93
Les Pittler Esy. Name-Type of Print	· · · · · · · · · · · · · · · · · · ·	Address Lancasi City		Telephone No /740 / Zip Code
Signature Signature		Representativ	e to be Contacted:	
25 Wardsworth Bridge a	My 410-823-44	Name	——————————————————————————————————————	
Lumerville M.	Telephone No.	Address		Telephone No.
City	Zip Code	City	State	Zip Code
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Por Contraction of the Contracti	•		NGTH OF HEARING	3 - hm
Case No. 05-51/57/4		UNAVAILABLE	FOR HEARING	

Reviewed By





FROM THE OFFICE OF GEORGE WILLIAM STEPHENS, JR., & ASSOCIATES, INC.

ENGINEERS

658 KENILWORTH DRIVE, SUITE 100, TOWSON, MARYLAND 21204

CVS/pharmacy

Description to Accompany Zoning Petition

March 13, 1998

DESCRIPTION OF PROPERTY ON COMPASS ROAD AND MARTIN BOULEVARD AND FUSELAGE AVENUE.

Beginning at a point on the southern right-of-way line martin boulevard, as shown hereon. Thence leaving said point of beginning, and running the following courses:

- 1. By a curve to the left, having a Radius of 5804.60' and an Arc Length of 170.00'
- 2. By a curve to the right, having a Radius of 15.00' and an Arc Length of 20.81'
- 3. Thence leaving Martin Boulevard and running along the west side of Compass Road, S 26° 58' 30" W, 241.21'
- 4. S 26° 57' 00" W, 81.95', and
- 5. By a curve to the right, having a Radius of 15.00' and an Arc Length of 26.31' to the northern side of Fuselage Avenue
- 6. thence running along the northern side of Fuselage Avenue, by a curve to the right, having a Radius of 6154.58' and an Arc Length of 106.10'
- 7. thence leaving Fuselage Avenue and running N 36° 08' 55" E, 99.97'
- 8. N 26° 58' 30" E, 123.00'
- 9. N 00° 07' 10" E, 160.75' to the Place of Beginning.

Containing 0.99 ACRES of land, more or less.

NOTE: The above description is for zoning purposes only and is not to be used for any conveyances or agreements.

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: #06-511-SPH
2 Compass Road
S/west corner of Compass Road and Martin Boulevard
15th Election District — 7th Councilmanic District
Legal Owner(s): CCM Associates, LLC, Richard
Welkowitz, Member
Contract Purchaser: CVS #2455-01 & Essex Marin
CVS, Inc.

Special Hearing: to allow a modification of Restriction number two (2) of the order granted July 22, 1998 in Case No. 98-384-SPHA.
Hearing: Thursday, May 19, 2005 at 9:00 a.m. in Room 407. County Courts Building, 401 Bosley Avenue, Towson 21204.

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 5/811 May 3!

49417.

CERTIFICATE OF PUBLICATION

$\frac{5/5}{2000}$
THIS IS TO CERTIFY, that the annexed advertisement was published
n the following weekly newspaper published in Baltimore County, Md.,
nce in each ofsuccessive weeks, the first publication appearing
$\frac{5 3 }{5005}$
The Jeffersonian
Arbutus Times
☐ Catonsville Times
☐ Towson Times
Owings Mills Times
☐ NE Booster/Reporter
☐ North County News
2 Wilking
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LEGAL ADVERTISING

CERTICATE OF POSTING

ATTENTION: KRISTEN MATTHEWS

Date May 5, 2005

Case Number 05-511-SPH

Petitioner/Developer LES PITLER / CCM ASSOCIATES, RKHARD WELKOWITZ

CVS.#12455-01

Date of (Hearing) Closing MAY 19, 2005.

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 2 COMPASS ROAD

The sign(s) were posted on



CASE # 05-511-5PH

THE ZONING COMMISSIONER IN TOWSON, MD

DATE AND TIME AT DIZO AM

REQUEST: SPECIAL HEARING TO ALLOW A MODIFICATION OF RESTRICTION

NUMBER TWO CAD DETHE ORDER

GRANTED JULY 12.1998 IN CASE

NO 90 38 IL SEHA Q COMPASS ROAD

Posteone are due to we ather of other combittons are sometimes necessary to confirm Heaving Call But 3391

DO ADT REMOVE THE SICH AND FORT WITH DAY OF HEARING UNDER PERALTY OF LAW HAHDICAPPED ACCESSIBLE

(Signature of Sign Poster)

Linda O'Keefe (Printed Name of Sign Poster)

523 Penny Lane (Street Address of Sign Poster)

Hunt Valley Maryland 21030 (City, State, Zip Code of Sign Poster)

410-666-5366

(Telephone Number of Sign Poster)

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

April 12, 2005

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: 05-511-SPH

2 Compass Road

S/west corner of Compass Road and Martin Boulevard

15th Election District – 7th Councilmanic District

Legal Owners: CCM Associates, LLC, Richard Welkowitz, Member

Contract Purchaser: CVS #2455-01 & Essex Marin CVS, Inc.

Special Hearing to allow a modification of Restriction number two (2) of the order granted July 22, 1998 in Case No. 98-384-SPHA.

Hearing: Thursday, May 19, 2005 at 9:00 a.m. in Room 407, County Courts Building, \ 401 Bosley Avenue, Towson 21204

Timothy Kotroco

Director

TK:klm

C: Les Pittler, 25 Wandsworth Bridge Way, Lutherville 21093
CCM Associates, Richard Welkowitz, 120 North Pointe Blvd., Lancaster PA 17601
CVS #2455-01, One CVS Drive, Woonsocket RI 02895

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, MAY 4, 2005.

(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, May 3, 2005 Issue - Jeffersonian

Please forward billing to:

Les Pittler 25 Wandsworth Bridge Way Lutherville, MD 21093 410-823-4455

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: 05-511-SPH

2 Compass Road

S/west corner of Compass Road and Martin Boulevard

15th Election District – 7th Councilmanic District

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401 Bosley Avenue, Towson 21204

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 ZONING 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.

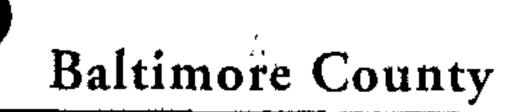
OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

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For Newspaper Advertising:	}
Item Number or Case Number: <u>05-5// Sアル</u>	1
Petitioner: CCM ASSOCIATES, LLC	
Address or Location: 2 Compass Rd	
PLEASE FORWARD ADVERTISING BILL TO: , Name:	
Name:	
- Marie Valle joil - Joll	
Telephone Number: 410-823-4455	-

Department of Permits a Development Management

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





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

May 9, 2005

Les Pittler, Esquire 25 Wandsworth Bridge Way Lutherville, Maryland 21093

Dear Mr. Pittler:

RE: Case Number: 05-511-SPH, 2 Compass Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 4, 2005.

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,

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel CCM Associates, LLC. Richard Welkowitz 120 N. Pointe Blvd. Lancaster PA 17601 CVS # 2455-01 Brenda Jordan One CVS Drive Woonsocket RI 02895



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

Fire Department

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





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 April 12, 2005

ATTENTION: Zoning Review planners

Distribution Meeting of: April 18, 2005

Item No (: 511)

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.

3. The site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code prior to occupancy or beginning of operation.

Acting Lieutenant Don W. Muddiman Lieutenant Franklin J. Cook Fire Marshal's Office (0)410-887-4881 (C)443-829-2946 MS-1102F

cc: File



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: April 21, 2005

Department of Permits & Development

Management

FROM:

Dennis A. Kennedy, Acting Supervisor.
Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For April 25, 2005

Item No. 506, 507, 509, 510, 511

512, 513, 515, 516,

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

DAK:CEN:clw cc: file

ZAC-NO COMMENTS-04212005.doc

DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

RECEIVED

TO:

Tim Kotroco

FROM:

John D. Oltman, Jr 500

DATE:

May 24, 2005, 2005

MAY 2 5 2005

ZONING COMMISSIONER

SUBJECT:

Zoning Items # See List Below

Zoning Advisory Committee Meeting of April 18, 2005

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

05-506 Granted 5/4/05 05-507 Granted 5/4/05 05-508 20 (20) 05-511 Granted 5/23/05 05-512 Granted 5/19/05 05-513 Granted 5/4/05 05-515 Granted 5/4/05

Reviewers:

Sue Farinetti, Dave Lykens

S:\Devcoord\ZAC SHELL 11-20-03.doc

7872

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

RECEIVED

DATE: July 26, 2004

AUG - 2 2004

ZONING COMMISSIONER

SUBJECT:

1422 Kent Road

INFORMATION:

Item Number:

5-011

Petitioner:

Anthony R. Bialozybski, Sr.

Zoning:

DR 5.5

Requested Action:

Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the subject request and has determined that the petitioner owns sufficient adjoining land to conform to the minimum width and area requirements and therefore does not meet the standards stated in Section 304.1.C of the BCZR. Nevertheless, the existing lot pattern of the neighborhood is that of a mixture of 50-foot and wider lots. As such, this office does not oppose the petitioner's request provided the following conditions are met:

- 1. Move the house forward to align with the adjacent houses that sit closer to the street.
- 2. Locate the driveway and parking pad to the side rather than the front of the house.

Prepared by:

Division Chief:

AFK/LL:MAC:

STEEL ST

W:\DEVREV\ZAC\5-011.doc

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

10:		1 m Kouoco
FROM	•	John D. Oltman, Jr
DATE:		July 23, 2004
SUBJE	CT:	Zoning Item # 05-011 Address 1422 Kent Road (Bialozynski Property)
	Zoning	Advisory Committee Meeting of June 19, 2004.
····	The Do	epartment of Environmental Protection and Resource Management has no ents on the above-referenced zoning item.
<u>X</u>	The Dethe fol	epartment of Environmental Protection and Resource Management offers lowing comments on the above-referenced zoning item:
		Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Section 14-331 through 14-350 of the Baltimore County Code).
	<u></u>	Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).
	<u>X</u>	Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).
	<u>Additi</u>	onal Comments:

Reviewer:

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Keith Kelley

Date: July 23, 2004

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BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: April 28, 2005

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): Case(s) 5-423, 5-511, and 5-519

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark Cunningham in the Office of Planning at 410-887-3480.

Prepared By:

Division Chief:

MAC/LL



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

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

Maryland Department of Transportation

Date: 4.17.05

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

RE:

Baltimore County

Item No. 5//

115

Dear. Ms. Matthews:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

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

J. J. Hould

Engineering Access Permits Division

RE: PETITION FOR SPECIAL HEARING

2 Compass Road; SW corner Compass Road

and Martin Boulevard

*

15th Election & 7th Councilmanic Districts

Legal Owner(s): CCM Associates, LLC

by Richard Welkowitz, Member

Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

05-511-SPH

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 and documentation filed in the case.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CAROLE S. DEMILIO

Deputy People's Counsel

Old Courthouse, Room 47

400 Washington Avenue

Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of April, 2005, a copy of the foregoing Entry of Appearance was mailed to Leslie Pittler, Esquire, 25 Wandsworth Bridge Way, Lutherville, MD 21093, Attorney for Petitioner(s).

RECEIVED

Per C

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Department of Permits Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmenforce@co.ba.md.us
pdminspect@co.ba.md.us



Baltimore County

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

May 16, 2005

Leslie M. Pitler, Esquire 25 Wandsworth Bridge Way Lutherville, MD 21093

Re: 2 Compass Road

Tax Acct. No. 20-00-001651 C.C.M. Associates, L.L.C. Code Enforcement Verification

Dear Mr. Pitler:

Per your request, a review of the Code Enforcement records fails to indicate any active violation cases against the subject property.

If additional questions should develop, please contact me directly at 410-88/1-8094.

Sincerely,

James H. Thompson, Supervisor Bureau of Code Enforcement

jht/lrs





Ap/16

IN RE:

PETITIONS FOR SPECIAL HEARING AND VARIANCE - SW/Corner Martin Boulevard and Compass Road (Parcel D of Goldentree and 803 & 805 Fuselage Avenue) 15th Election District 6th Councilmanic District

Goldentree Develop., Inc., et al *
Richard Welkowitz/Blackford Dev.
Petitioners/Contract Purchaser*

BEFORE THE

ZONING COMMISSIONER

OF BALTIMORE COUNTY

Case No. 98-384-SPHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by Richard Welkowitz, on behalf of Blackford Development LTD, the Contract Purchaser, and by the owners of the subject and adjoining properties, Goldentree Development, Inc., Rutherford R. and Johanna Dawson, and Marvin J. and Elma K. Rombro, through their attorney, Leslie M. Pittler, Esquire. The Petitioners seek approval of a commercial loading/service area in residential and R.O. zones and commercial parking in residential and R.O. zones, pursuant to Section 409.8.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), and variance relief from the B.C.Z.R. as follows: 1) From Section 409.8.a.4 to permit a parking setback of 7 feet in lieu of the required 10 feet; from Section 232.1 to permit a front setback of 0 feet in lieu of the required 10 feet; from Section 232.3 to permit a rear setback of 12 feet in lieu of the required 20 feet; from Section 232.2 (See 1B01.2.C.1.a) to permit a side setback of 0 feet in lieu of the required 20 feet; from Section 409.6.A.2 to permit 45 parking spaces in lieu of the required 51; and, from Section 1B01.1.B.e to permit a 10-foot buffer in a residential transition area in lieu of the required 50 feet. The subject property and relief sought are more particularly described on the red-lined site plan submitted into evidence as Petitioner's Exhibit 4.

Appearing at the hearing on behalf of the Petitions were Donna M. Deerin, a representative of Blackford Development LTD, co-Petitioner, Tom Woolfolk, Landscape Architect and project engineer with George W. Stephens, Jr. and Associates, Inc., who prepared the site plan for this property, Wes Guckert, traffic engineering expert, Bruce Hollingsworth, Architect, Lewis Hess, Laurie A. Mazzotta, and Leslie M. Pittler, Esquire, attorney for the Petitioners. Numerous individuals from the surrounding community appeared in opposition, all of whom signed the Protestant's Sign In Sheet. Among those who acted as spokespersons were Sharon McDowell, Ellen Kern and Duward E. Hart, on behalf of the Victory Villa Improvement Association, and Wanda Kod, on behalf of the Aero Acres Civic Improvement Association.

At the hearing, as a preliminary matter, Mr. Pittler amended the Petition for Variance by deleting two of the requests. Specifically, the variance seeking a 12-foot rear yard setback in lieu of the required 20 feet and the variance seeking approval of 45 parking spaces in lieu of the required 51 were deleted. Thus, there are but four variances now being requested, in addition to the special hearing relief.

Mr. Pittler also submitted a copy of his letter dated June 10, 1998 to Mr. Arnold "Pat" Keller, Director of the Office of Planning. That letter set forth a series of representations to which the Contract Purchaser/Developer will be bound. The items contained therein represent a series of what the Developer proffers are "concessions" to the neighbors who vehemently object to the proposed project. In this regard, it is to be noted that the items set forth in that letter will be incorporated as conditions to any relief granted herein. It is also to be noted that the size of the building will actually be 8,625 sq.ft., slightly larger than the 8,600 sq.ft. represented in Mr. Pittler's letter. Additionally, the

hours of operation will be from 8:00 AM to 9:30 PM as opposed to the 9:00 AM to 9:30 PM indicated under Item (i) of Mr. Pittler's letter.

Testifying in support of the project was Mr. Thomas Woolfolk, the landscape architect assigned to this project by George W. Stephens, Jr. and Associates. Mr. Woolfolk presented the site plan and generally described As indicated above, the property is actually a the subject property. compilation of three parcels which abut one another, the largest of which is located at the southwest corner of Martin Boulevard and Compass Road. The rear of the two other smaller parcels, which front on Fuselage Avenue, abut the side of the larger parcel. The three parcels contain an aggregate gross area of .99 acres, split zoned B.L., D.R. 10.5 and R.O. The predominant zoning is B.L. (.73 acres) with some D.R. 10.5 (.12 acres) and a portion of R.O. (.14 acres). As noted above, the larger of the three parcels is located immediately adjacent to Martin Boulevard and Compass Road. This parcel is owned by Goldentree Development, Inc. and contains the B.L.-zoned portion of the site. At the present time, this parcel is unimproved. In fact, after the hearing, I conducted a site visit to the property and, as far as practical, walked the site. This portion of the lot is heavily wooded and undeveloped. Additionally, there appears a culvert, or some other type of drainage system on that part of the lot which abuts Martin Boulevard. Apparently, that portion of the property will contain the underground storm water management facility. The balance of the overall tract consists of two heretofore residentially used lots, known as 803 and 805 Fuselage Avenue. The property at 803 Fuselage Avenue is zoned D.R. 10.5 and is improved with an existing dwelling presently owned by Rutherford R. and Johanna Dawson. The second lot, known as 805 Fuselage Avenue, is zoned R.O. and is improved with a structure, which at

the time of my site visit, was being used as a doctor's office. This lot is owned by Marvin J. and Elma K. Rombro.

The Contract Purchaser proposes to develop the combined parcels with an 8,625 sq.ft. CVS/Pharmacy store, utilizing the smaller lots for parking. As a result of a great many negotiations and discussions, the store will be oriented towards Compass Road, and vehicular access to the parking lot which serves same will be by way of two curb cuts from that There will not be any vehicular access to the site from either road. Fuselage Avenue or Martin Boulevard. Mr. Woolfolk testified at length about the proposed project and the relief requested within the Petitions for Special Hearing and Variance. He indicated that the site featured a number of constraints which limited development possibilities. observed in the field, the site has a significant grade and rises from Martin Boulevard. Additionally, the topography of the land is uneven. Moreover, the rear of the site when viewed from Compass Road, abuts a number of residences in the Victory Villa subdivision. Obviously, these residents oppose the project, fearing a commercial intrusion onto their residential properties.

worth, an Architect. He described the proposed structure and CVS' attempt to design same so that it would blend with the surrounding residential community. He also indicated that there would be no external sound system and that lighting of the site will be directed towards the building and downward. In this regard, it is to be noted that the site plan shows a drive-thru window towards the rear of the proposed building. As shown on the plan, the Petitioners designed a stacking lane and by-pass lane to the rear of the site, between the property's boundary and the rear building

line of the store. This will enable customers to pick up prescriptions without leaving their vehicles.

Extensive testimony was also received from Wes Guckert, a traffic engineer. Mr. Guckert testified extensively about traffic patterns and conditions in the area. In sum, he opined that the proposed use will not be detrimental to the surrounding locale and will not unduly cause congestion in the road system. My site visit was also helpful in examining the traffic issues. As noted above, both vehicular entrances will be from Compass Road with no access from either Martin Boulevard or Fuselage Avenue. Additionally, the intersection of Martin Boulevard and Compass Road is signalized thereby regulating traffic at that location. Moreover, the intersection of Compass Road and Fuselage Avenue is regulated by a fourway stop sign. In my judgment, this light and the stop sign system adequately control traffic so as to allow safe access/egress to and from the site.

In addition to the testimony offered by the Petitioners, there was significant testimony and evidence presented by the Protestants. On behalf of the Victory Villa Improvement Association, Duward E. Hart testified and presented a written statement summarizing his association's concerns. Primarily, the community is concerned about an overcrowding of the site with a building that is too large for the property, and an adverse impact on traffic patterns in the area. Testimony was also received from Ellen Kern, a nearby resident. She is also concerned about traffic, environmental pollution, and nuisance effects incidental to the conducting of business on this property. Sharon McDowell also testified in opposition to the request. In addition to the concerns expressed by the other

witnesses, Ms. McDowell also fears a potential increase in crime occasioned by the location of the proposed store.

The above recitation is but a summary of the testimony and evidence offered. There were numerous documentary exhibits submitted which have been considered by this Zoning Commissioner. Additionally, I conducted a site visit to the property as noted above. I found this site visit of great assistance in evaluating the relief sought in this case.

In considering the issues before me, I think it of significant note that the lion's share of the property is zoned B.L. The B.L. zoning classification stands for Business Local and is a classification which is assigned by the County Council to promote business. Thus, the nature of the proposed use is entirely consistent with the property's zoning classi-That is, the County Council has determined that this property fication. should be zoned B.L. and, by placing that classification on this site, has recognized that the subject property is an appropriate location for business activity. In my judgment, this zoning is altogether appropriate, particularly in view of surrounding land uses. Admittedly, the property does back up to the residences in Victory Villa. However, all four of the corners adjacent to the intersection of Martin Boulevard and Compass Road are business-oriented. Immediately across Compass Road from the subject site is a service station and what appears to be an abandoned convenience store. On the other side of the site across Martin Boulevard is a County Recreation and Parks' office. Caddie-corner from this intersection is a shopping center and another gas station. Clearly, the parcels of land which surround this intersection are all business/commercial/non-residential in character. Thus, it is of particular note that the matter before me is not a Petition for Special Exception where I must consider the propriety of a proposed use. The use suggested here is permitted by right, a fact that some of the Protestants apparently do not grasp. The issue before me is whether the site can be developed in the manner proposed, with the relief needed under the Petitions for Special Hearing and Variance.

Notwithstanding the zoning of the predominant portion of the property, however, I am appreciative of the Protestants' concerns. Indeed, the property is within close proximity to a residential neighborhood, as the rear property line abuts many houses which front Box Circle in the Victory Villa subdivision. Moreover, there are residences directly across Fuselage Avenue and the site does call for the removal of two buildings which at one time were used for residential purposes. As noted above, the lot owned by Mr. & Mrs. Rombro now used as a doctor's office will be converted into a parking area as will the adjacent lot on which a dwelling presently owned by Mr. & Mrs. Dawson is located. The use of these two properties in the development of the site must be monitored closely to prohibit adverse impact on the surrounding residences.

In considering the variances requested, I am persuaded that the relief requested should be granted. In this regard, I must be guided by the requirements of Section 307 of the B.C.Z.R. as construed by the case law (See Cromwell v. Ward, 102 Md. App. 691 (1995)). That authority requires me to make a finding that the property is unique in order for variance relief to be granted. In my judgment, such a finding is easily reached. The uniqueness of this property is derived from its configuration and topography. As Mr. Woolfolk noted, the constraints associated with the development of this property are difficult. The site is particularly difficult to develop in that it tapers to its narrowest width at the cen-

ter of the site as same is viewed from Compass Road. This makes locating improvements difficult and generates much of the variance relief sought.

Additionally, I find that practical difficulty would be suffered by the Petitioners if relief were denied. To deny the variances requested would prohibit development of the property with a permitted purpose (i.e., business use). Lastly, I find that there will not be adverse impact on surrounding properties, assuming that certain restrictions are imposed. For these reasons, the variances will be granted.

As to the Petition for Special Hearing, I likewise will grant same. Development of the property would not be possible without providing sufficient parking. Even the Protestants would concede that customers of the store should park on the subject site and there should not be a spill over into their community. Thus, permitting a portion of the parking lot in a residential zone is appropriate. Moreover, the commercial loading/service area in a residential zone is acceptable. In this regard, it was indicated that deliveries will be made to the side/rear of the building at an entrance more particularly shown on the site plan. This entrance falls within the portion of the property zoned D.R. 10.5.

Therefore, upon due consideration of the testimony and evidence presented, the Petitions for Special Hearing and Variance (as amended) will be granted. In this regard, I shall incorporate the amended red-lined site plan marked as Petitioner's Exhibit 4. Additionally, pursuant to the authority conferred upon me by the Baltimore County Code and the B.C.Z.R., certain conditions and restrictions shall be added. As noted above, the terms and conditions set forth in Mr. Pittler's letter of June 10, 1998 shall be attached as conditions precedent to the relief granted. As noted above, those terms and provisions are specifically incorporated herein,

except as to the amendment of the square footage of the proposed building to 8625 sq.ft. instead of 8600 sq.ft. and the hours of operation limited to from 8:00 AM to 9:30 PM.

As an additional condition/restriction, I shall require the elimination of the drive-thru lane. In my judgment, the existence of the drive-thru window would be the single biggest negative impact upon the community and would be inappropriate here. I explain. The building is sited on the property so as to be close to Compass Road, immediately behind an area of landscaping and sidewalk adjacent to the road right-of-way. The proposed drive-thru lane is located in the rear of the property, between the CVS/Pharmacy building and the rear property line shared with a number of residences which are part of the Victory Villa subdivision. Although I applaud the Petitioners' efforts to reduce that impact by the installation of fencing and landscaping, I believe that the existence of traffic to the rear of the site immediately adjacent to the rear property line will cause adverse impacts to the residents who reside to the rear which cannot be Although there will not be an outside sound system, there will mitigated. be noises associated with customer pick-up and automobile traffic immediately adjacent to these residences. Moreover, there would be disruption caused by headlights and other increased lighting in that area. In my judgment, such a condition is unacceptable and will not be allowed. Therefore, although I approve the amended plan submitted, I will restrict the relief so as to require compliance with the terms and conditions outlined in Mr. Pittler's letter to Mr. Keller, as well as an elimination of the drive-thru lane. The rear of the site can contain a macadam area to allow for proper traffic circulation; however, that rear area should be nothing

more than a drive aisle. Any reduction of the macadam surface in that area can more properly be used for screening purposes.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this day of July, 1998 that the Petition for Special Hearing seeking approval of a commercial loading/service in residential and R.O. zones and commercial parking in residential and R.O. zones, pursuant to Section 409.8.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 4, be and is hereby GRANTED; and,

herein) seeking relief from the B.C.Z.R. as follows: From Section 409.8.a.4 to permit a parking setback of 7 feet in lieu of the required 10 feet; from Section 232.1 to permit a front setback of 0 feet in lieu of the required 10 the required 10 feet; from Section 232.2 (See 1B01.2.C.1.a) to permit a side setback of 0 feet in lieu of the required 20 feet; and, from Section 1B01.1.B.e to permit a 10-foot buffer in a residential transition area in lieu of the required 50 feet, in accordance with Petitioner's Exhibit 4, be and is hereby GRANTED, subject to the following restrictions:

- 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 proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) Compliance with the terms and conditions set forth in Mr. Pittler's letter of June 10, 1998, a copy of which is attached hereto and made a part hereof. As noted above, those terms and provisions are specifically incorporated herein, except as to the increase in the size of the proposed building from 8600 sq.ft. to

8625 sq.ft. and the hours of operation will be from 8:00 AM to 9:30 PM. Development of the site is subject to the development review regulations and process set forth in Title 26 of the Baltimore County Code. (i.e., compliance with the Zoning Plans Advisory Committee comments submitted by the Office of Planning, dated June 10, 1998), a copy of which is attached hereto. 4) The drive-thru lane to the rear of the property shall be eliminated. The rear of the site can contain a macadam area to allow for proper traffic circulation; however, that area should be nothing more than a drive Any reduction of the macadam surface in that aisle. area can more properly be used for screening efforts. 5) When applying for a building permit, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order. IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 232.3 to permit a rear setback of 12 feet in lieu of the required 20 feet and from Section 409.6.A.2 to permit 45 parking spaces in lieu of the required 51, be and is hereby DISMISSED. LAWRENCE E. SCHMIDT Zoning Commissioner for Baltimore County LES:bjs - 11-

DATE: June 10, 1998

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III, Director

Office of Planning

SUBJECT:

SWC Martin Boulevard and Compass Road

INFORMATION:

Item Number: 384

Petitioner:

Richard Welkowitz/Blackford Development LTD

Property Size:

 $0.99\pm$ acres

Zoning:

BL, RO & DR-10.5

- Hearing Date: . .

June 18, 1998

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the above referenced project and offers the following comments:

DRC REQUEST

The subject proposal was submitted to the DRC on February 23, 1998 (DRC # 02238K) for consideration as a limited exemption to develop a CVS store. The Office of Planning recommended that the limited exemption request be denied and the proposal should follow the Concept Plan process, including a Community Input Meeting and Hearing Officer Hearing. The DRC request was tabled on February 23rd. Mr. Pittler's letter of June 10, 1998 indicates that the applicant submit to a "Community Input Meeting at the earliest possible date after the Hearing on June and a decision by the Hearing Officer." The Planning Office understands this to mean that the project will go through the full development review process.

RECOMMENDATION

Staff has met with representatives of the developer to discuss changes to the plan accompanying the subject request. Modifications to the plan have resulted in a reduction in the size of the proposed building and an increase of the screening of adjacent residential uses. Provided that any approval is conditioned upon the terms outlined in Mr. Pittler's letter of June 10, 1998 (see

attached), the Office of Planning does not oppose the granting of the relief requested for this property which obviously presents many challenges due to its size. In addition, every effort should be made to continue to resolve the issue related to the double fence.

Prenared by:

Division Chief:

AFK:JL:lsn

Attachment

ATTORNEY-AT-LAW

SUITE 610

29 WEST SUSQUEHANNA AVENUE TOWSON, MARYLAND 21204

(410) 823-4455

June 10, 1998

JUN I 1998

OFFICE OF PLANNING

FACSIMILE

(410) 583-2437

Mr. Arnold F. "Pat" Keller
Director
Baltimore County Office of Planning
401 Bosley Avenue
Towson, Maryland 21204

Re: Proposed CVS, Martin Blvd. And Compass Road

Dear Pat:

Pursuant to the meeting held in your office on the morning of June 10, 1998, at 10:30 AM, the Developer of the above-captioned site will testify at the Hearing scheduled for June 16, 1998, as to the following:

A: The proposed square footage of the building is to be reduced from 10,100 square feet to 8600 square feet. This reduction of 1500 square feet is a concession that is rarely if ever made by CVS, but is being done as an accommodation to the neighbors of the site.

B: The Developer will erect a fence on the side of the property bordering Box Hill Circle in order to screen the site from the adjacent homes, with the fence and appropriate landscaping.

C: The dumpster serving the building will be enclosed within a masonry enclosure as well as any compacter that CVS will have on site, to match the building's texture.

D: The Developer will not increase the drainage or run-off on the adjacent neighbors homes.

E: Any sound system connected with the operation of the building will be at or below the state mandated decibel levels, and if possible eliminated altogether.

F: The Developer will have no entrance or exit onto Fuselage Avenue.

G: The large roof-top package units will be enclosed in a sufficient manner so as not to make them visible to the adjacent homes.

H: The Developer agrees to have a Community Input Meeting at the earliest possible date after the Hearing on June 16 and a decision by the Hearing Officer.

I: The daily hours of operation will not be 24 hours but will be from 9:00 AM to 9:30 PM.

J: The Developer will work diligently with State and County officials to determine the possibility of a sound barrier along Martin Boulevard.

These issues will all be addressed in my opening remarks at the Hearing.

Very truly yours,

Leslie M. Pittler

CASE NAME & Compass Rd CASE NUMBER 05-511-5PH DATE 5/19/05

CITIZEN'S SIGN-IN SHEET

	KRM31700 Enoth UN. Com										
CITY, STATE, ZIP											
ADDRESS	Sof pescher Me										
NAME	Ken McDowell										

PLEASE PRINT CLEARLY

CASE NAME & GODOSS RO CASE NUMBER 05-5/5-5/ DATE 5/19/05

PETITIONER'S SIGN-IN SHEET

E-MAIL	Manie Deus. com	LENORE @ CUS. Conf Les - law @ George t. Att								
CITY, STATE, ZIP	Calverin III	CALVERTON MD 21693								
ADDRESS	CVS DEMMAN	3								
NAME	Mike BANTO Chines	Levin E. Nore Lestue H. P. Hles								

