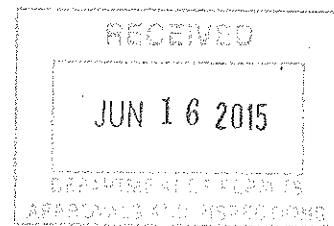




Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

TO 10 CR
for file (File)



June 15, 2015

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286

RE: *In the Matter of: TTV Properties III, LLC – Petitioner*
(a/k/a Volvo Dealership)

Case Nos.: CBA-14-039 and CBA-15-011

2005-0596-SPHX

Dear Counsel:

Enclosed please find a copy of the final Majority Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter. Also enclosed is a copy of Mr. Alston's Dissenting Opinion.

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*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Krysundra "Sunny" Cannington
Administrator

KLC/tam
Enclosure
Duplicate Original Cover Letter

c: TTV Properties, III, LLC
Benjamin Kulp/Site Resources, Inc.
Becky Gerber
Richard A. Zeller/State Highway Administration
Office of People's Counsel
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Dept. of Planning
Michael Field, County Attorney/Office of Law

Mitchell and Nancy Williams
Jim and Lisa McBean
John and Amy Spencer
Mary Slafkosky
Chris Bowman
Jan Cook, Acting Development Manager/PAI
Nancy C. West, Assistant County Attorney

IN THE MATTER OF
TTV Properties III, LLC
(aka Volvo Dealership)
10630 York Road
DRC #s 042214A & 042214B

8th Election District
3rd Councilmanic District

Re: Appeal of Director of PAI's approval of a
limited exemption under BCC § 32-4-106 and
Appeal of Development Plan approval

* BEFORE THE
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
*

Case Nos.: CBA-14-039 &
CBA-15-011

File
2005-0596 SPHX

* * * * *

MAJORITY OPINION AND ORDER

This matter comes before the Board as two separate appeals of Administrative Orders and Decisions. The Board must first consider the appeal of the Administrative Order and Decision granting a limited exemption from the full development review and approval process and if the Board determines that a limited exemption is appropriate, the Board is to consider the merits of the Development Plan itself pursuant to the regulations and applicable policies, rules and regulations adopted in accordance with Article 3, Title 7 of the Code which entitles it to approval. Both appeals, as provided by Sections 602 and 603 of the Baltimore County Charter ("Charter"), are subject to a *de novo* standard of review. The hearing on the respective appeals was held on April 30, 2015 and June 4, 2015.

This matter comes before this Board on appeal filed by J. Carroll Holzer, Esquire on behalf of Protestants/Appellants, Becky Gerber; Jim and Lisa McBean, John and Amy Spencer, Mitchell and Nancy Williams, Mary Slafkosky, and Chris Bowman, from the decision letter dated May 12, 2014 from Arnold Jablon, Director of the Department of Permits, Approvals and Inspections, wherein he adopted the recommendations of the Development Review Committee (DRC) who determined

that the proposed project met the requirements of a limited exemption under Section 32-4-106(b)(8) which allows for a minor development.

The Board convened for a hearing on September 11, 2014. Lawrence E. Schmidt, Esquire appeared on behalf of TTV Properties, III, LLC, Legal Owner. J. Carroll Holzer, Esquire appeared on behalf of the above listed Protestants/Appellants, and People's Counsel for Baltimore County was represented by Carole S. Demilio, Deputy People's Counsel.

On September 23, 2014, the Board issued an Order wherein the appeal was stayed "...until such time as the Petitioner has a final development plan approved, or one that this Board can approve, and has filed for all other zoning relief and approvals, if any, which are necessary for consideration by this Board of the development issues pertaining to all renovation, and redevelopment of the subject property in order that this Board shall conduct a single hearing on all the requested relief...".

The development plan review concluded with PAI's conditional approval on February 23, 2015. After supplemental cautionary appeals of this approval, the CBA reconvened for a *de novo* hearing on April 30, 2015 and June 4, 2015.

Background

The property at issue is 10630 York Road (the "Property"). It is located on the west side of York Road approximately one-third of a mile north of Warren Road. It is split zoned Business, Local ("BL") with an Automotive Service ("AS") District Overlay ("BL-AS"), Manufacturing, Light ("ML") with an Industrial, Major ("IM") District Overlay ("ML-IM") and Business, Major ("BM") with an IM District Overlay ("BM-IM"). Petitioner's Exhibit No. 12. The front portion of the property is split zoned with the two business classifications whereas the rear of the property is zoned manufacturing.

The Property lies inside the Urban Rural Demarcation Line ("URDL"). It is currently served by public water and sewer. The Property has been purchased by the Appellee from Roger L. Hale and Bonita W. Hale, as reflected in a deed dated March 20, 2014, which is recorded in the Land Records of Baltimore County in Liber 34821, Folio 465. As noted above, the property is located with frontage on York Road (Md. Rte. 45), a major north/south corridor in central Baltimore County. York Road extends from Baltimore City to the south to the Mason Dixon Line and Pennsylvania to the north. Within the section of York Road at and near this property, the land uses are commercial in character. Businesses front York Road from Baltimore City to the south to beyond Hunt Valley to the north. Members of the Sherwood Hill Improvement Association were present at the hearing before this Board and testified on behalf of the Protestants. This community is located on the side of York Road, opposite the proposed development. This community is situated on a hill overlooking the York Road corridor, making the proposed development visible from the homes of some of the residents.

The Protestants who testified believe that the proposal represents the first car dealership fronting York Road north of Warren Road, while the Petitioner claims that there was previously a SAAB dealership nearby in this block. Petitioner notes that there are tire stores, body shops, service garages and other automotive related uses both north and south of the property. It is noteworthy that, the AS (Automobile service) district designation has been applied to the property, giving some indication of the County's legislative intent and preference that that this property be used for automotive related uses. Other nearby uses include shopping centers and retail uses; as well as service businesses and offices. Protestants note that nearby properties include several historical structures as well as the long established antique shops north of the property.

For nearly the past two decades, the Property has been used as a Self Service Car Wash. The operation is open twenty four hours a day and includes eight self service bays and one full service bay. In Case No. 1995-35-XA, in a decision dated September 22, 1994, Zoning Commissioner Lawrence E. Schmidt granted Special Exception relief to permit a car wash operation as well as variance relief to permit a front yard setback of 46 feet in lieu of the required 90 feet, an 11 foot wide bypass lane in lieu of a 12 foot driveway and tunnel exits from car wash facilities to be as close as 17 feet from the exit drive in lieu of the required 50 feet and a rear yard setback of 22 feet in lieu of the required 30 feet. Petitioner's Exhibit No. 18a. This was a combined hearing, so the zoning decision was combined with Case No. VIII-635, and the Zoning Commissioner/Hearing Officer also granted Development Plan approval. Approximately a decade later, in Case No. 2005-0596-SPHX, in a decision dated July 21, 2005, Zoning Commissioner Bill Wiseman granted Special Hearing and Special Exception relief to permit the alteration and expansion of the existing car wash operation previously approved in Case Nos. 95-35-XA and VIII-635. Petitioner's Exhibit No. 18b. The decision was appealed, but the Appellants moved for dismissal and the Board of Appeals issued an Order of Dismissal dated July 27, 2007. The Protestants noted those decisions and particularly certain language thereon which restricted the building materials used for the car wash.

The property owner, TTV Properties III, LLC presently operates automobile dealerships under the name Bill Kidd's Toyota and Bill Kidd's Volvo at a single location south of the subject property (approximately one half mile away) Due to requirements of his franchisor (Toyota International) the Petitioner is required to relocate the existing Volvo dealership to a different premises, so two different manufacturers do not share the same location. What is being proposed in this matter is the removal of the car wash operation and the redevelopment of the site with a

4,500 square foot building which will be used as an automobile showroom. In addition, there will be outside areas for parking for customers and employees as well as space for the storage of inventory. The expected volume of Volvos to be sold monthly is minimal (approximately 20) and the commercial transaction will occur in the dealership building.

Discussion

I. Requested Exemption

In the case at bar, the Petitioner filed the DRC Application and requested a BCC § 32-4-106(a)(1)(vi) exemption from the full development review and approval process. In the Board's de novo review of this request for limited exemption, the Board may find a limited exemption pursuant to BCC § 32-4-106(b)(8), agree with the Petitioner's request for full exemption for full development review pursuant to BCC § 32-4-106(a)(1)(vi), or determine that the Petitioner is not entitled to either the A or B exemption and therefore is subject to the full development review and approval process.

BCC § 32-4-106(a)(1)(vi) provides an exemption from the development review process for the construction of a minor commercial structure. That section specifically articulates the exemption as follows:

(vi) the construction of residential accessory structures or minor commercial structures.

The term "minor commercial structure" is not defined in the Code. The term minor commercial structure thus has to be defined by utilizing a reasonable interpretation of the words used in the language of the exception. Therefore, the Board must find what constitutes a minor commercial structure and make factual findings with respect to whether the proposed development constitutes as minor commercial structure.

In listening to the relevant testimony as to this issue presented to the Board, although the term "minor commercial structure" is not clearly defined in the code, this Board is persuaded that the development contemplated for this site is not a minor commercial structure. However, the Board does find that an exemption is appropriate pursuant to BCC § 32-4-106(b)(8) as the contemplated development does comport with the definition of a minor development as defined in BCC § 32-4-101(aa)(1) as:

- (1) A development without a public works agreement;
- (2) A residential development with a public works agreement involving only road widening; or
- (3) A development in which the improvements are determined by the Director of PAI as minimal under § 32-4-304(e) of this title.

This finding is supported by the testimony of Mr. Michael Fisher, Vice President of Site Resources, who testified that this property was already served by public utilities and no public works agreement ("PWA") is required. Only extensions of existing water and sewer to the building, which do not necessitate a PWA, will be needed. No road improvements are required. Further, Jennifer Nugent, of Department of Planning, testified that the development plan was administratively reviewed for compliance with applicable rules and regulations.

In conclusion, this Board finds that the exemption pursuant BCC § 32-4-106(b)(8) in the case at bar, allowing the Board to now contemplate the merits of the Development Plan itself.

II. Development Plan

The Board must find in review of the Development Plan that the Development Plan "complies with these development regulations and applicable policies, rules and regulations adopted in accordance with Article 3, Title 7 of the Code, provided that the final approval of a plan shall be subject to all appropriate standards, rules, regulations, conditions, and safeguards set forth therein", as provided in BCC § 32-4-229(b)(1).

The required County agencies have reviewed the Petitioner's Development Plan and concluded that it meets all requirements.

Absent evidence showing that reviewing county agencies failed to conduct a proper review of a development's compliance with the applicable regulations which are in effect, or claims that County officials acted in an arbitrary and capricious manner in making their recommendations, administrative officers are presumed to have properly performed their duties. *People's Counsel v. Elm Street Dev., Inc.*, 172 Md.App. 690, 701 (2007) (quoting *Md. Securities Com'r v. U.S. Securities Corp.*, 122 Md. App. 574, 588 (1998)). Consequently, if County agencies give recommendations in approval of a Development plan, it becomes the Protestant's burden to produce the agencies recommendations. Such rebuttal evidence would usually come in the form of expert testimony. Former Planning Director, Arnold "Pat" Keller was called by People's Counsel to testify as to permitted uses on the proposed site. No further experts were called by the Protestants.

Zoning of proposed development

The property at issue contains three (3) different zoning designations: B.L., and B.M. in the front portion of the proposed site and M.L. in the rear, where the Petitioner has proposed storage of automotive inventory.

The Petitioners contend that the proposed uses of the property can be divided into three (3) categories; the actual brick and mortar structure of the sales facility, off street parking, and storage of inventory. The Petitioners contend that car sales and the off-street parking are permitted by right in both the B.L. and B.M. zones. The Petitioners also concede that car sales are prohibited in the ML zone. Petitioners contend that the BCZR § 259.2.B provides that a parcel of land that

is assigned with a combination of BM-IM and BL-AS zoning is also permitted to allow uses permitted in the BM-IM zone on that portion of the Property which is zoned BL-AS.

Bill 2-14

During the hearing, both Protestants and People's Counsel presented arguments challenging the applicability of the language in Bill No. 2-14 to the case at bar and further challenged the validity of the Bill itself; arguing that the bill was invalid in that it was in essence tailor-made for the property at issue specifically. This Board heard testimony that at least one other property would be effected by this legislation and therefore declines to find the bill to be invalid. Consequently, the Board finds that Bill No. 2-14 is clearly applicable to the case at bar. The BCZR clearly defines the relationship between zones and districts in BCZR §§ 100.1 & 259.

BCZR § 100.1.A.1 generally explains the purpose of zones as follows:
For the purpose of promoting the health, security, comfort, convenience, prosperity, orderly development and other aspects of the general welfare of the community, zones are intended to provide broad regulation of the use and manner of use of land, in accordance with comprehensive plans.

Districts are superimposed upon zones. BCZR § 100.1.B.1 provides that "[t]o further the purposes of zones, districts are intended to provide greater refinement in land-use regulation." BCZR § 259.1 further provides the legislative intent regarding zones and districts as follows:

In any district, the use, height, area and other regulations applicable in the underlying zone(s) or district(s) upon which the district is superimposed shall govern except as may specifically be enlarged, modified or limited by the district regulations in this section. In the case of conflict between the provisions of an underlying zone and overlaying district(s), the most recently enacted provision shall prevail.

Bill No. 2-14 ensures that BCZR § 259.2.B, the regulation applying to the AS district, prevails over BCZR § 230.1, the regulation generally applying to the underlying BL zone.

In short, the Board finds that the use of the B.L. and B.M. portion of the proposed site for the sale of automobiles and customer parking to be lawful and appropriate within the BCZR.

III. M.L.-I.M. Automobile Storage

It is on the issue of the permitted uses of the M.L.-I.M. portion of the proposed site that the Board has fractured its opinion to a two-to-one majority, with Board member Benfred Alston dissenting (attached hereto.)

The M.L. zone (BCZR 253.1 A. and B.) provides for "manufacturing and assembling of goods"; concomitantly and logically storage on the site is necessary until the products are delivered to the commercial zones (B.L. B.M. B.R.) where they can be sold. The language of BCZR 253.1 A. B., however, does not expressly allow for the storage of automobile inventory as contemplated in conjunction with the petitioner's proposed automobile dealership.

The Petitioner argues that since BCZR 253.1 A.2 permits automobile assembly as a use permitted by right in the ML zone, it would only make logical sense that the said product, automobile, could be stored in the ML portion of the property.

The Board in determining what use would be most disruptive to the surrounding properties when comparing the manufacturing of automobiles to the simple storage of them, the Board is convinced as a matter of pragmatic logical thinking that the storage of automobiles would be permitted in the ML zone. While the Board heard competing expert testimony as to whether the storage of vehicles was or was not permitted in the ML zone, we are persuaded with the Petitioner's contention that such a use is permitted.

IV. Challenges to zoning

The Appellants contend that the Property was mistakenly zoned BM-IM. Testimony was provided that the strip of land zoned BM-IM was specifically raised as an "issue", as that term is defined in BCC § 32-3-211, in the 2008 Comprehensive Zoning Map Process ("CZMP").

Assuming that some error has been made, such issues should be raised through the CZMP process, a request for zoning reclassification, or in a request for Map Correction as enumerated in the Baltimore County Code. Consequently, these issues are beyond the Board's authority.

V. Community Concerns

While the concerns of the surrounding community were not all presented in the form of expert testimony, this Board gives great weight and deference to the opinions and concerns of the residents in the community surrounding the proposed development site. The concerns of the community include the impact such a development would have with regard to lighting, traffic, noise, and the visual appearance of the redeveloped site. Protestants witness Eric Rockel testified that the proposed development did not follow the design guidelines established in the Hunt Valley/Timonium Plan in that the proposed car dealership did not fit into the historic theme of the surrounding antique and arts and crafts retail establishments. Mr. Rockel further testified that the proposed car dealership's actual brick and mortar structure was not in keeping with the red brick and green metal roof appearance noted by the Zoning Commissioner in previous opinions.

These concerns were echoed by community members, Carol Taylor, Michael Pierce, and Becky Gerber. Although not accepted by this Board as an expert, community member James McBean provided this Board with a compelling presentation regarding his concerns with the lighting of the proposed development and how that lighting compares to the minimal light intrusion found presently at the carwash now operating on the proposed site. While the Board appreciates Mr. McBean's concerns as to the proposed site's future lighting, it is impossible to ensure that there will be no light spillage from the proposed car dealership. However, the proposed development is required to submit a lighting plan in keeping with County regulations and

requirements and this Board will impose additional lighting restrictions to minimize the amount of intruding light.

While the Board finds that all of the community concerns are valid, this Board does not find that these concerns reach a level which should preclude the approval of the proposed development. This Board heard testimony from Petitioner William Kidd who assured this Board that no loud speaker or outdoor intercom device would be used on the site. Additionally, Mr. Kidd testified that deliveries of new inventory would be made at one of Mr. Kidd's other automotive retail establishments and that no car carriers would be unloading inventory at the proposed site. Mr. Kidd further testified that the back portion of the proposed site which is zoned ML would be off limits to customers during business hours and that customers would be shown perspective vehicles for purchase after they had been driven to the front of the proposed development by a car dealership employee. The Board also notes that Mr. Kidd testified that he foresees the sale of approximately twenty (20) vehicles monthly and that the sales activity at the proposed Volvo dealership is not as intensive as that found at dealerships of more popular brands.

Conclusion

In reviewing the proposed development to ensure that it complies with the development regulations and applicable, rules and regulations adopted in accordance with Article 3, Title 7 of the Code and all the appropriate standards, rules, regulations, and safeguards as provided in BCC 32-4-229(b)(1), this Board finds that the Petitioner's development plan is approved with conditions.

ORDER

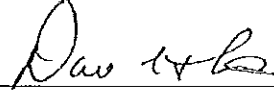
THEREFORE, IT IS THIS 15th day of June, 2015, by the Board of Appeals for Baltimore County,

ORDERED, that

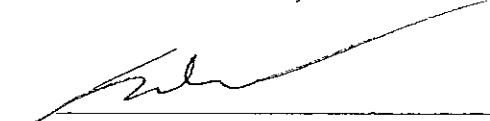
1. The Developer is granted a limited exemption pursuant to BCC § 32-4-106(B)(8).
2. The Development Plan, received into evidence as Developer's Exhibit 12, be and is hereby APPROVED, subject to the following conditions/restrictions:
 - a. The hours of operation for the new and used automobile sales facility shall be restricted to no earlier than 9:00 a.m. and no later than 9:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. There shall be no automobile sales on Sunday.
 - b. Signage shall be as shown on Developers Exhibit 14, specifically, the sign shall be a monument sign and not a freestanding pole sign.
 - c. No service garage shall be permitted. No automobile repairs, mechanical or body, shall be conducted on the site.
 - d. Deliveries of automobiles by car carrier 18-wheel trucks, shall not be permitted. As indicated at the hearing, vehicles are delivered to TTV Properties III, LLC's service location on Industry Lane and this practice shall continue.
 - e. There shall be no outdoor speakers.
 - f. Lighting and landscaping shall be as shown on Developer's Exhibit 14. Lighting has been designed with new technology to prevent light spillage outside of the property. As clarified by the County's landscape architect, lighting shall be dimmed and/or unnecessary lighting turned off during non-business hours.
 - g. The commercial transaction for the sale of motor vehicles shall occur only in the BM-IM and BL-AS zone.

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*.

BOARD OF APPEALS
OF BALTIMORE COUNTY



David L. Thurston, Panel Chair



Andrew M. Belt

IN THE MATTER OF
TTV PROPERTIES, III, LLC
(A.K.A. Bill Kidd's Volvo Dealership)
10630 York Road

DRC # 042214A

8th Election District
3rd Councilmanic District

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. CBA-14-039 and
CBA-15-011

Re: Appeal of Director of PAI's
Approval of a limited exemption
Under BCC §32-4-106 and
Appeal of Development Plan

2005-0596-SPHX

* * * * *

DISSENTING OPINION

I disagree with the Majority as it relates to their interpretation of Sections 253.1.A.2 and Section 253.1.B.16 of the Baltimore County Zoning Regulations (BCZR) concerning the uses permitted as of right in a Manufacturing, Light ("ML") zone.

The subject property at is located at 10630 York Road (the "Subject Property"). It is located on the west side of York Road approximately one-third of a mile north of Warren Road. It is split zoned Business, Local ("BL") with an Automotive Service ("AS") District Overlay ("BL-AS"), Manufacturing, Light ("ML") with an Industrial, Major ("IM") District Overlay ("ML-IM") and Business, Major ("BM") with an IM District Overlay ("BM-IM") (Petitioner's Exhibit No. 12 – The Development Plan). The front portion of the property is split zoned with the two business classifications whereas the rear of the property is zoned Manufacturing, Light ("ML"). The Petitioner's Development Plan (Petitioner's Exhibit 12) calls for new and used cars to be situated on the ML portion of the Subject Property as "Inventory" to be sold in the ordinary course of the Petitioner's business; namely, "Bill Kidd's Volvo Dealership".

The Majority has determined that the language of BCZR Section 253.1.A. and BCZR 253.1.B.16 permit the storage of new or used car inventory in the ML Zone portion of the Subject Property. BCZR Section 253.1.A.2 permits "automobile assembly" by right in the zone and BCZR § 253.1.B.16 permits "storage...of any product...whose sale (retailer or wholesale) or final processing or production is permitted as of right as a principal use in the ML zones"¹. In any automobile dealership, Inventory is the central part to the successful operation of the dealership, as such; it is unlikely that a dealership can operate it. The Development Plan, Exhibit 12, and testimony from witnesses provide that anywhere from 60 – 90 cars will be situated in the rear section of the Subject Property.

The Petitioner put forth the appropriate question for the Board of Appeals (the "Board") when it stated that:

"... does the Development Plan comply with the development regulations and applicable policies, rules and regulations adopted in accordance with Article 3, Title 7 of the Code which entitles it to approval?"²

The Petitioner asserts that because an ML zone permits Automobile Assembly and Storage ... of any product whose sale or final processing or production is permitted as of right that translates to permitting a highly regulated retail activity such as the placement of inventory which will be used for the purposes of operating a car dealership. Although arguably the assemblage of automobiles maybe a more intense use on property as opposed to the operation of a car dealership, it is not the prerogative of the Board to expand the plain meaning of words in the BCZR. There is nothing in the BCZR 253 that leads one to believe that the storage of automobile inventory in a ML zone is a use permitted by right. If the County Council wanted new car dealerships to operate in an ML zone, it could have articulated such in plain language

¹ The storage of inventory is permitted in the BM and BL zones as provided in BCZR §§ 233.1 & 259.2.B.

² Baltimore County Code Section 32-4-229(b)(1)

but it did not. Moreover, in one case the County Board of Appeals resolved this matter and concluded that an automobile dealership is not a permitted use in the M.L. Zone. See, The Matter of Application of Auto Properties, LLC, Case No. 06-109-SPH, decided April 6, 2007, affirmed (Norman, J.), Circuit Court Case 03-C-07-4792, (January 10, 2008).

Pursuant to the facts presented, approval of the Petitioner's Development Plan must be denied. For all of the above reasons, therefore, I dissent to the opinion of the Majority in this case.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

June 15, 2015
Date

Benfred B. Alston
Benfred B. Alston

IN THE MATTER OF
THE APPLICATION OF
ROGER AND BONITA HALE -LEGAL
OWNERS / PETITIONERS FOR SPECIAL
HEARING AND SPECIAL EXCEPTION ON
PROPERTY LOCATED AT 10630 YORK ROAD
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 05-596-SPHX

* * * * *

ORDER OF DISMISSAL

This matter comes to the Board of Appeals on appeal filed by Michael P. Tanczyn, Esquire, on behalf of Dan Feeley, Mark Krug, James Thomas, and Steve Thrush, Appellants /Protestants, from a decision of the Zoning Commissioner dated July 21, 2005, in which the requested zoning relief was granted with restrictions.

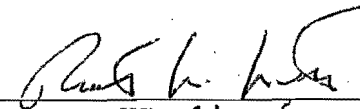
WHEREAS, the Board is in receipt of a letter of withdrawal of appeal filed on July 11, 2007 by Michael P. Tanczyn, Esquire, on behalf of the Protestants (a copy of which is attached hereto and made a part hereof), and

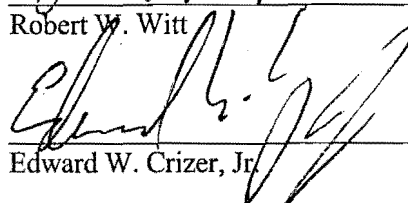
WHEREAS, said Counsel for Appellants /Protestants indicates that further hearing on this matter as scheduled for July 24, 2007 will not be necessary as the parties have come to a settlement,

IT IS THEREFORE ORDERED this 27th day of July, 2007 by the County Board of Appeals of Baltimore County that, having withdrawn this matter from further hearing on July 24, 2007, the appeal taken in Case No. 05-596-SPHX be and the same is hereby **DISMISSED**.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Lawrence S. Wescott

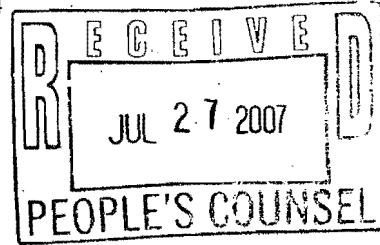

Robert W. Witt


Edward W. Crizer, Jr.



County Board of Appeals of Baltimore County

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



July 27, 2007

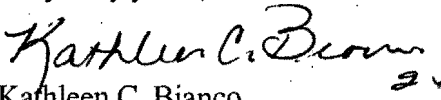
Michael Tanczyn, Esquire
606 Baltimore Avenue
Suite 106
Towson, MD 21204

RE: *In the Matter of: Roger and Bonita Hale*
Case No. 05-596-SPHX /Order of Dismissal

Dear Mr. Tanczyn:

Enclosed please find a copy of the Order of Dismissal issued this date by the Board of Appeals of Baltimore County in the subject matter.

Very truly yours,


Kathleen C. Bianco
Administrator

Enclosure

c: Dan Feeley
Mark Krug
James Thomas
Steve Thrush
Howard L. Alderman, Jr., Esquire
Roger and Bonita Hale
Ronald M. Kearney /KLS Consultants
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
James Thompson, Supervisor /Code Enforcement (Case # 04-9417)
Timothy M. Kotroco, Director /PDM



IN RE: ROGER & BONITA HALE
10630 York Road
8th Election District
3rd Councilmanic District

Roger and Bonita Hale,

Owners/Respondents

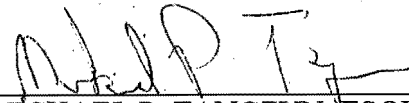
* BEFORE THE COUNTY BOARD
* OF APPEALS FOR
* BALTIMORE COUNTY
*
* Case No. 05-596-SPHX
*

* * * * *

MOTION FOR DISMISSAL

Dear Madam Clerk:

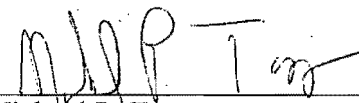
Please dismiss the within Appeal at the request of the Appellants, Daniel J. Feeley,
Steven Thrush, Mark Krug and James Thomas, with prejudice.



MICHAEL P. TANCZYN, ESQUIRE
606 Baltimore Avenue, Suite 106
Towson, MD 21204
410-296-8823

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 9th day of July, 2007, a copy of the foregoing was mailed First Class Mail, postage prepaid, to Howard L. Alderman, Jr., Esquire, Levin & Garn, P.A., 502 Washington Avenue, 8th Floor, Towson, MD 21204, attorney for Owners/Respondents.



Michael P. Tanczyn

LAW OFFICES
MICHAEL P. TANCZYN, P.A.

Suite 106 • 606 Baltimore Avenue
Towson, Maryland 21204
Phone: (410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827
Email: mptlaw@verizon.net

July 9, 2007

Board of Appeals of Baltimore County
Attn: Kathy Bianco
Old Courthouse
Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: Case No.: 05-596 SPHX
10630 York Road

Dear Kathy:

I am writing to inform you on behalf of the Protestants that further hearing on this matter presently scheduled to resume July 24, 2007, will not be necessary as the parties have come to a settlement in this matter.

Any questions, don't hesitate to call.

Very truly yours,


Michael P. Tanczyn, Esquire

MPT/kds

Encl.

cc: clients
Howard Alderman, Jr., Esquire

RECEIVED
JUL 11 2007

BALTIMORE COUNTY
BOARD OF APPEALS

**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



cd
pm
Baltimore County

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

*PC NOT IN YOUR
BUSINESS
COMPETITORS*

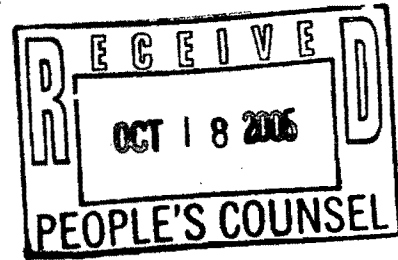
*Case Wash
in Hunt Valley
who appealed
other commercial operators?*

October 17, 2005

Howard Alderman, Jr.
Levin & Gann
502 Washington Avenue, Ste. 800
Towson, MD 21204

Dear Mr. Alderman:

RE: Case: 05-596-SPHX, 10630 York Road



Please be advised that an appeal of the above-referenced case was filed in this office on August 11, 2005 by several parties as a group. 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.

*5/10/07 Reviewed again.
Case does not warrant participation.
Appellants are competitors.
PMZ*

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

c: William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Mr. & Mrs. Roger Hale, 4308 Northcliff Road, Glen Arm 21057
Mr. Ronald Kearney, 4401 Philadelphia Road, Bel Air 21015
James Thomas, 10117 York Road, Cockeysville 21030
Steve Thrush, 1811 Amyclae Drive, Bel Air 21015
Dan Feeley, 8 Blenmont Ct., Phoenix 21131
Mark Krug, 14321 Sawmill Court, Phoenix 21131

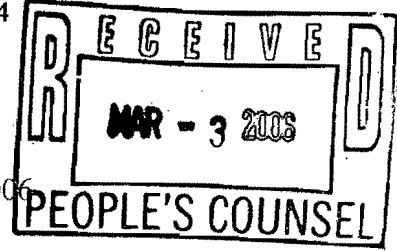
Visit the County's Website at www.baltimorecountyonline.info





County Board of Appeals of Baltimore County

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



March 3, 2006

Michael Tanczyn, Esquire
606 Baltimore Avenue
Suite 106
Towson, MD 21204

RE: *In the Matter of: Roger and Bonita Hale –
Legal Owners /Petitioners*
Case No. 05-596-SPHX

Dear Mr. Tanczyn:

This will acknowledge receipt of your entry of appearance filed on February 28, 2006 in the subject matter on behalf of the Protestant.

As you are aware, the hearing in this matter is scheduled for Tuesday, May 23, 2006, at 10:00 a.m. in Room 49, Old Courthouse, 400 Washington Avenue, Towson MD 21204. The file has been noted, and we will continue to send all future correspondence and/or notices to you in this matter.

Please call me if I can be of any further assistance.

Very truly yours,

Kathleen C. Bianco
Administrator

c: Dan Feeley
Howard L. Alderman, Jr., Esquire
Office of People's Counsel



APPEAL

Petition for Special Hearing & Special Exception
10630 York Road
W/s York Road, 10' s/of the centerline of Hillside Avenue
8th Election District – 3rd Councilmanic District
Legal Owners: Roger & Bonita Hale

Case No.: 05-596-SPHX

Petition for Special Hearing/Special Exception (May 18, 2005)

Zoning Description of Property

Notice of Zoning Hearing (May 24, 2005)

Certification of Publication (June 21, 2005 – The Jeffersonian)

Certificate of Posting (June 21, 2005) by Linda O'Keefe

Entry of Appearance by People's Counsel (May 25, 2005)

Petitioner(s) Sign-In Sheet – One Sheet

Protestant(s) Sign-In Sheet – None

Citizen(s) Sign-In Sheet – One Sheet

Zoning Advisory Committee Comments

Petitioners' Exhibit

1. Site Plan
2. Hearing Officer's Development Plan & Variance Order (95-35-XA & VIII-635)
3. Building Permit B576631
4. Aerial Photograph
5. Photos (5A-5F)

Protestants' Exhibits:

1. Photo
2. Photos (2A-2E)

Miscellaneous (Not Marked as Exhibit)

1. Division of Code Inspections & Enforcement Active Violation Case Documents
2. Memo dated May 16, 2005 from Code Enforcement Supervisor

Zoning Commissioner's Order (GRANTED – July 21, 2005)

Notice of Appeal received on August 11, 2005 from Dan Feeley, Mark Krug, James Thomas & Steve Thrush together as one party

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner
Timothy Kotroco, Director of PDM
Howard Alderman
Mr. & Mrs. Roger Hale
Mr. Ronald Kearney
James Thomas
Steve Thrush
Dan Feeley
Mark Krug
Code Enforcement

date sent October 17, 2005, klm

IN RE: PETITION FOR SPECIAL HEARING
W/S York Road, 10' S of the c/l
Hillside Avenue
(10630 York Road)
8th Election District
3rd Council District

**Roger L. Hale, et ux [t/a Hale Ventures,
Inc.], Legal Owners,**

Petitioners

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

Case No.: 05-596-SPHX

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Special Exception filed by the owners of the subject property, Roger L. Hale, and his wife, Bonita W. Hale, t/a Hale Ventures, Inc., through their attorney, Howard L. Alderman, Jr., Esquire. Special hearing relief is requested, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), seeking approval of (1) an amendment to the special exception relief/area granted in prior Cases Nos. 95-35-XA and VIII-635, to permit the continued operation of seven (7) of the previously approved self-service car wash bays, in conjunction with the conversion of the eighth (8th) previously approved bay from a self-service wash to a roll-over car wash, together with the expanded mechanical building and related facilities; (2) an amendment to the site plan approved in the prior case(s) to reflect the additional stacking spaces required for the proposed roll-over conversion. In addition, special exception relief is requested, pursuant to Sections 230.13, 253.1.C.7, 253.2B.2, 253.2E and 502.1 of the B.C.Z.R., seeking approval of the single-bay, roll-over car wash use and that the land area of the special exception in the prior case be expanded for additional stacking spaces associated with the roll-over use. The subject property and requested relief are more particularly described on the site plan submitted, which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the requests were Mr. Roger Hale and Ms. Bonita Hale, Owners of the subject property and operators of the current car wash located thereon. Accompanying Mr. and Mrs. Hale was Ronald M. Kearney, a Professional Land Surveyor who prepared and sealed the Plat to accompany the zoning petitions. Mr. Kearney was recognized as an expert in zoning and surveying matters. The Petitioners were represented by Howard L. Alderman, Jr., Esquire. The following citizens, who also operate car wash businesses in the area, were present: Daniel J. Feeley, Mark Krug, Steven Thrush and James Thomas. There were no other citizens or other members of the community present. All in attendance agreed that the hearing should proceed with a proffer of testimony followed by full and complete questioning of any and all persons present.

The proffered testimony indicated that the subject property is presently split-zoned, BL-AS and ML-IM. The total tract of land owned by the Petitioners is approximately 1.6 acres, although the area of the special exception uses (including the requested expansion area) comprises approximately one-half of the site. Pursuant to the relief granted in prior Cases Nos. 95-35-XA and VIII-635 on September 22, 1994 by then Zoning Commissioner Lawrence E. Schmidt, the eastern side of the property is improved with an eight (8) bay self-service car wash, a mechanical building, vacuum cleaners, landscaping and parking/stacking spaces. (See Petitioner's Exhibit 2) All in attendance acknowledged that the conditions and restrictions contained in the prior Order have been complied with, including without limitation, an attendant on the subject property. All of these improvements are shown on the site plan and photo array of the subject property, which were submitted and marked into evidence as Petitioner's Exhibits 5 A-F.

Proffered testimony revealed that based on Commissioner Schmidt's finding at page 4 of his

decision in the prior case, Mr. Hale believed that he could convert one of the existing self-service car wash bays to an automatic car wash and proceeded to convert the eight bay to a roll-over use. Mr. Feeley, who owns and operates a car wash at the northwest corner of York and Shawn Roads, subsequently called the Department of Permits and Development Management (DPDM) and inquired as to how the conversion was permitted without a modification of the approval in the prior case. Upon investigating this matter, Mr. Hale was advised to apply for and was issued Baltimore County Building Permit No. B8576631 (introduced and accepted as Petitioner's Exhibit No. 3), which allowed the alteration of one bay of the self-service car wash to an automatic car wash. However, after additional inquiries to the County were made by Messrs. Feeley and Krug, a Code Enforcement Citation was issued requiring Mr. and Mrs. Hale to seek further zoning approval for the roll-over car wash use. Mr. Hale discontinued the use and operation of the roll-over car wash pending the outcome of this hearing.

The Baltimore County aerial photo reprint introduced as Petitioner's Exhibit 4, shows that the subject property fronts directly on York Road, with commercial zoning to the north and east and manufacturing zoning to the south and west. The Petitioners seek to enlarge the area of the previously approved special exception by approximately 0.14 acres to provide the additional stacking spaces and circulation required in the requested conversion of the self-service bay to a roll-over wash bay. The Petitioners are not seeking any additional variance relief or waiver of any public standard. The relief sought can be most simply described as the enlargement of the special exception area to permit the stacking and parking spaces required by Section 419 of the B.C.Z.R. for a car wash comprised of seven (7) self-service wash bays and one (1) roll-over wash bay, together with vacuum units, a mechanical building and associated facilities as identified on Petitioner's Exhibit 1.

During the hearing, those in attendance raised questions regarding the function of the circulation/by-pass lane, vehicle stacking and whether or not the owners would continue to have an attendant on the site as required in the prior case. It is clear that Messrs. Feeley, Krug and Thomas each had to navigate the zoning approval process for the uses at their respective sites and they wanted to ensure that the same processing/approval requirements were applied equally to Mr. and Mrs. Hale.

Ingress and egress to the subject property is directly from York Road, Maryland Route 45. The State Highway Administration (SHA) has issued comments in this case, dated May 26, 2005, indicating that they have no objection to the requested relief. A field inspection revealed that the existing entrances are acceptable to the SHA and the subject property is not affected by any SHA projects. The Office of Planning had no objection to approval subject to the clarification of certain stacking spaces. Mr. Kearney, making reference to Petitioner's Exhibit 1, described the vehicle circulation and confirmed that the stacking spaces are all single-file at the tunnel entrances as required by Section 419.3.A of the B.C.Z.R. The Bureau of Development Plans Review delivered its comments at the time of the hearing and made inquiry about storm drain relocation. Although the required storm drain relocation was shown on the site plan, a request for verification was contained in that agency's comments. The final review comments were from the Baltimore County Fire Department requiring compliance with the Fire Prevention Code.

As noted above, a series of photographs (Petitioner's Exhibits 5A-F) were submitted and used by Mr. Hale to describe the existing building, the additional land area for additional stacking spaces, required directional signage controls and video cameras used by the on-site attendant to monitor traffic movements on the subject property. These photographs reveal a neat and well-

maintained commercial site with adequate space to expand the existing macadam to accommodate the additional stacking spaces associated with the roll-over car wash bay. Mr. Feeley introduced a series of photographs, marked as Protestant's Exhibit 2, depicting the subject property during high levels of activity. It is clear from all of the photographs presented that the use is operated in such a way as to preclude vehicles from waiting on the street or blocking the public right-of-way.

A review of the facts, evidence and testimony presented in this case reveals that although the Owners obtained a validly issued County building permit for conversion of the eighth car wash bay to a roll-over car wash, additional zoning relief is necessary as set forth above. The Owners have discontinued use of the converted car wash bay pending the outcome of these proceedings. It is also clear that the existing car wash use on the subject property is operated in a clean and efficient manner. There is more than ample room on the overall site to permit the requested expansion of the special exception area for the stacking spaces required by the roll-over wash bay.

Based upon the testimony and evidence produced by the Petitioner, I am persuaded that the requested special exception and special hearing relief should be granted. I find that, subject to the conditions below, the conversion of one existing self-service car wash bay to a roll-over (automatic) car wash use and the expansion of the special exception area to provide additional stacking spaces, will not be detrimental to the health safety or general welfare of the public or the community. The photographic evidence, the existing requirement for an on-site attendant, the review by the SHA and the description by Messrs. Kearney and Hale as to how the car wash uses and circulation operate have shown that the requested relief will not create congestion in the roads, overcrowd the land or create a potential danger. The roll-over car wash, like the self-service car wash bays can be approved as the requirements of Section 419 of the B.C.Z.R. have been satisfied. The improvements depicted

on Petitioner's Exhibit 1 also meet the requirements, conditions and restrictions in the prior case.

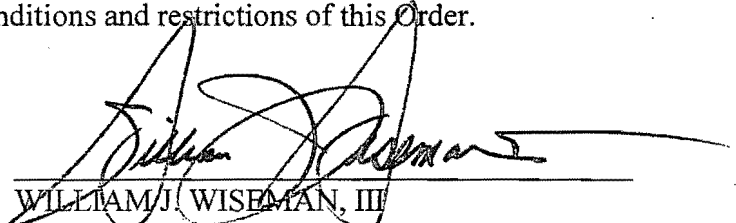
Pursuant to the advertisement, posting of the property and public hearing on these Petitions held and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County, this 21st day of July 2005, that the Petition for Special Hearing seeking approval of (1) an amendment to the special exception relief/area granted in prior Cases Nos. 95-35-XA and VIII-635 to permit the continued operation of seven (7) of the previously approved self-service car wash bays, in conjunction with the conversion of the eighth (8th) previously approved bay from a self-service wash to a roll-over car wash, together with the expanded mechanical building and related facilities; (2) an amendment to the approved plans in prior Cases Nos. 95-35-XA and VII-635 consistent with the special exception relief requested herein and the additional stacking spaces required for the proposed roll-over conversion; and, 3) to approve additional parking/stacking spaces in the M.L.-I.M. zoned portion of the property which are accessory to and support the car wash uses, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Exception to permit an expansion of the special exception area granted in prior Cases Nos. 95-35-XA and VIII-6325 to include the additional M.L.-I.M. zoned area for additional parking/stacking spaces, pursuant to Sections 230.13, 253.1.C.7, 253.2B.2, 253.2E and 502.1 of the B.C.Z.R., in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the thirty (30) day Appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

- 2) Only one (1) of the existing car wash bays is permitted to operate as a roll-over car wash pursuant to this Order. Should the Petitioners desire in the future to make any further changes in the uses on the subject property, a public hearing may be necessary and those changes must be reflected on a properly prepared, reviewed and approved site plan, including without limitation, and zoning relief that may be required.
- 3) Should the Owners desire to use any portion of the property that they own for further expansion of the special exception uses confirmed and extended hereby or any other permitted use, all required County approvals are to be obtained before operation of those uses is instituted.
- 4) The Petitioners shall submit a redlined development plan for review by the Department of Permits and Development Management, depicting the relief granted herein, the conditions and restrictions of this Order and the Order issued in prior Cases Nos. 95-35-XA and VIII-635, and compliance with Section 419 of the B.C.Z.R. In addition, the plan shall show compliance with the comments received from the Bureau of Development Plans Review regarding verification of the storm drain relocation.
- 5) When applying for a building permit, the site plan filed must reference this Case and set forth and address the conditions and restrictions of this Order.



WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County

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

July 21, 2005

Howard L. Alderman, Jr., Esquire
Levin & Gann
502 Washington Avenue, 8th Floor
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING & SPECIAL EXCEPTION
W/S York Road, 10' S of the c/l Hillside Avenue
(10630 York Road)
8th Election District – 3rd Council District
Roger L. Hale, et ux (t/a/ Hale Ventures, Inc.) - Petitioners
Case No. 05-596-SPHX

Dear Mr. Alderman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Special Exception have been granted, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "William J. Wiseman III", is written over a large, stylized star graphic.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

cc: Mr. & Mrs. Roger L. Hale
4308 Northcliff Road, Glen Arm, Md. 21057
Mr. Ronald M. Kearney, KLS Consultants, Inc.
4401 Philadelphia Road, Bel Air, Md. 21015
Mr. James Thomas, 10117 York Road, Cockeysville, Md. 21030
Mr. Steve Thrush, 1811 Amyclae Drive, Bel Air, Md. 21015
Mr. Dan Feeley, 8 Blenmont Court, Phoenix, Md. 21131
Mr. Mark Krug, 14231 Sawmill Court, Phoenix, Md. 21131
Office of Planning; Development Plans Review; Code Enforcement Division, DPDM
People's Counsel; Case File

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

GTCC NOT OPPOSED - CONVERSION

P42





Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 10630 York Road

which is presently zoned BL-AS/ML-IM

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

SEE ATTACHED

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.

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.

Contract Purchaser/Lessee:

NONE

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Howard L. Alderman, Jr., Esquire

Name - Type or Print

Signature

Levin & Gann, PA

Company

502 Washington Avenue, Suite 800

410-321-0600

Address

Telephone No.

Towson

Maryland

21204

City

State

Zip Code

Legal Owner(s):

Roger L. Hale

t/a Hale Ventures, Inc.

Name - Type or Print

Signature

Bonita W. Hale

t/a Hale Ventures, Inc.

Name - Type or Print

Signature

10630 York Road

410-628-6401

Address

Telephone No.

Cockeysville

MD

21030

State

Zip Code

Representative to be Contacted:

R.M. Kearney, PLS/ K.L.S. Consultants, Inc.

Name

4401 Philadelphia Road

410-989-0445

Address

Telephone No.

Bel Air

MD

21015

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By Bh Date 5/18/05

Case No. 05-596-SP4X

Attachment 1

PETITION FOR SPECIAL HEARING

CASE NO: 05- 596 -SPHX

Address: 10630 York Road

Legal Owners: Roger L. Hale & Bonita W. Hale, t/a Hale Ventures, Inc.

Present Zoning: BL-AS/ML-IM

REQUESTED RELIEF:

"why the Zoning Commissioner should approve": [1] an amendment to the special exception relief/area granted in Case No. 95-35-XA/VIII-635 to permit the continued operation of seven (7) self-service car wash bays, in conjunction with the conversion of 1 self-service bay to a rollover car wash bay, together with expanded associated mechanical buildings and related facilities as shown on the Plat to accompany this Petition; [2] an amendment to the approved plans in Case No. 95-35-XA/VIII-635 consistent with the relief requested and the Plat to accompany the Petitions in this case; [3] additional parking/stacking spaces in the ML-IM portion of the property which are accessory to and support the car wash uses, which spaces are located within the area described in the companion Petition for Special Exception; and [4] for such further relief as the nature of this project and request may require for the proposed uses shown on the Plat to accompany this Petition.

FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801
halderman@LevinGann.com



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 10630 York Road

which is presently zoned BL-AS/ML-IM

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

SEE ATTACHED

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.

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.

Contract Purchaser/Lessee:

NONE

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Howard L. Alderman, Jr., Esquire

Name - Type or Print

Signature

Levin & Gann, PA Nottingham Centre, 8th Floor

Company

502 Washington Avenue 410-321-0600

Address

Telephone No.

City

Towson, MD 21204

State

Zip Code

Legal Owner(s):

Roger L. Hale

t/a Hale Ventures, Inc.

Name - Type or Print

Signature

Bonita W. Hale

t/a Hale Ventures, Inc.

Name - Type or Print

Signature

10630 York Road

410-628-6401

Address

Cockeysville

MD

21030

Telephone No.

State

Zip Code

Representative to be Contacted:

R.M. Kearney, PLS/ K.L.S. Consultants, Inc.

Name

4401 Philadelphia Road

410-989-0445

Address

Bel Air

MD

21015

Telephone No.

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By

BN

Date

5/18/05

Case No. 05-596-SBHX

Attachment 1

PETITION FOR SPECIAL EXCEPTION

CASE NO: 05-596-SPHX

Address: 10630 York Road

Legal Owners: Roger L. Hale & Bonita W. Hale, t/a Hale Ventures, Inc.

Present Zoning: BL-AS/ML-IM

REQUESTED RELIEF:

Pursuant to BCZR §§ 230.13, 253.1.C.8, 253.2B.2, 253.2E & 502, to permit an expansion of the area of the Special Exception granted in Case No. 95-35-XA/VIII-635 for this BL/ML-IM split zoned property to include the additional ML-IM zoned area for additional parking/stacking spaces, together with any additional relief as may be necessary to approve the uses shown graphically or textually on the Plat submitted in support of this Petition.

FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801
halderman@LevinGann.com

**Department of Permits and
Development Management**

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



col/pml
Baltimore County

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

June 27, 2005

Howard L. Alderman, Jr. Esquire
Levin & Gann
502 Washington Avenue
Towson, Maryland 21204

Dear Mr. Alderman:

RE: Case Number: 05-596-SPHX, 10630 York Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 18, 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,

A handwritten signature in black ink, reading "W. Carl Richards, Jr.", is written over the typed name.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Roger L. and Bonita W. Hale 10630 York Road Cockeysville 21030
R.M. Kearney, PLS K.L.S. Consultants, Inc. 4401 Philadelphia Road Belair 21015

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



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

May 25, 2005

ATTENTION: Zoning Review planners

Distribution Meeting of: May 25, 2005

Item No. 596 and 601.

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 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
(O) 410-887-4881 (C) 443-829-2946
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

Maryland Department of Transportation

Date: 5.26.05

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

RE: Baltimore County
Item No. 596 TBR

Dear Ms. Matthews:

We have reviewed the referenced item and have no objection to approval, as a field inspection reveals that the existing entrance(s) on to MD/US are acceptable to the State Highway Administration (SHA) and this development is not affected by any SHA 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
Engineering Access Permits Division

LHP/PLZ

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: June 24, 2005

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 10630 York Road

INFORMATION:

Item Number: 5-596

Petitioner: Roger L. Hale

Zoning: BL-AS/ML-IM

Requested Action: Special Exception

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the petitioner's request to permit an expansion of the area of Special Exception granted in Case No. 95-35-XA/VIII-635 provided the applicant addresses the conflict stated below:

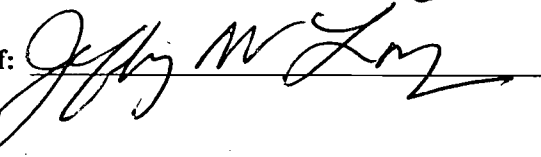
- There appears to be vehicular circulation conflict between S1&S2 and S23&S24.

For further information concerning the matters stated here in, please contact Bill Hughey at 410-887-3480.

Prepared by:



Division Chief:



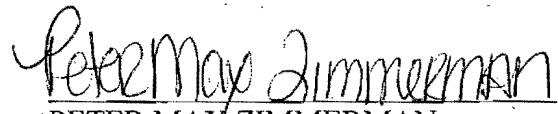
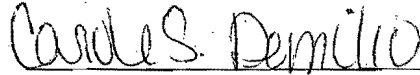
AFK/LL: CM

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
AND SPECIAL EXCEPTION *
10630 York Road; W/side York Road, 10' S * ZONING COMMISSIONER
c/line Hillside Avenue
8th Election & 3rd Councilmanic Districts * FOR
Legal Owner(s): Robert L & Bonita W Hale
Petitioner(s) * BALTIMORE COUNTY
* 05-596-SPHX

* * * * *

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.


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

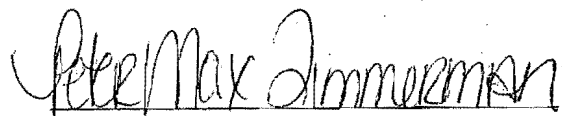
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of May, 2005, a copy of the foregoing Entry of Appearance was mailed to Ronald M Kearney, PLS/KLS Consultants, Inc, 4401 Philadelphia Road, Bel Air, MD 21015 and Howard L. Alderman, Jr. Esquire, Levin & Gann, P.A., 502 Washington Avenue, 8th Floor, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

MAY 25 2005

Per: 


PETER MAX ZIMMERMAN
People's Counsel for Baltimore County