

IN RE: PETITION FOR SPECIAL HEARING

NE side of Liberty Road, corner of Eside
of Burmont Avenue
2nd Election District
4th Councilmanic District
(9330 Liberty Road)

9330 Liberty Road Acquisition, LLC

Legal Owner

Stellar Cars, LLC

Contract Purchaser

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
*
* CASE NO. 2011-0269-SPH

* * * * *

OPINION AND ORDER

This matter comes before this Administrative Law Judge for consideration of a Petition for Special Hearing filed by 9330 Liberty Road Acquisition, LLC by Demetrios Vagelakos, Authorized Representative, the legal owner of the subject property. The Petition for Special hearing, filed in accordance with Sections 500.6 and 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") is as follows:

- The striking of applicable conditions precedent to the Special Exception approval in Case 93-381-X approving the use of the property for the sale of previously owned automobiles in order to permit the contract purchaser to utilize the property as it is presently used in accordance with Section 236 of the B.C.Z.R.; and
- A modified parking plan per Section 409.12 of the B.C.Z.R.; and
- Such other and further relief as may be deemed necessary by the Administrative Law Judge.

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

Appearing at the public hearing on this Petition were Chip Miller, Authorized Representative, for Stellar Cars, LLC, the contract purchaser and Kenneth J. Wells with kjWells,

ORDER RECEIVED FOR FILING

Date

4-25-11

By

Inc., the registered property line surveyor who prepared the site plan. The Petitioner was represented by Lawrence E. Schmidt, Esquire. There were no Protestants or other interested persons in attendance.

The Zoning Advisory Committee comments were made a part of the record of this case, none of which had any comments regarding the relief requested.

Testimony and evidence presented demonstrated that the subject site is a commercial property which fronts Liberty Road at its intersection with Burmont Avenue. Presently the site is vacant; however, it has previously been used as a business known as Prestige Imports, an automobile dealership. The property is vacant at this time and Chip Miller is interested in utilizing the property once again for purposes of an automobile sales dealership. The property comprises a gross acreage of 0.80 acre zoned BR-AS. The property is improved with a one story block and frame commercial building which functions as an automobile sales office. To the rear of that building is situated a small shop area wherein the Petitioner proposes to perform service work. The remainder of the property is utilized for customer and employee parking as well as the display of automobiles for sale.

This property was the subject of a prior zoning hearing specifically Case No. 93-381-X which approved a special exception to allow the current owner to utilize the property as an automobile sales business. In that particular order were imposed several conditions and restrictions on that approval. Specifically, Restriction #4 limited the granting of the special exception to be used only by Prestige Imports and more specifically Mr. Markides, the operator of that business. The granting of the relief in that case for Mr. Markides only and any transfer of the business or operation of the business to any person other than Mr. Markides would require the special hearing which has been filed before this Administrative Law Judge. As a consequence of that restriction,

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Date 4-25-11

By JZ

the Petitioner is filing this special hearing to remove that particular condition. Additionally, Restriction #5 in Case NO. 93-381-X also limits the use of the shop area on the rear of the building. Restriction #5 indicates that there shall be no service garage work performed within that building. This Applicant proposes to perform service work within that building and therefore has asked to modify Restriction #5 of that previous Order.

Additional relief has been requested pursuant to this special hearing petition to approve a modified parking plan pursuant to Section 409.12 of the B.C.Z.R.

Testimony was provided on behalf of Mr. Chip Miller indicating the type of automobile sales operation he intends to operate at this property. Mr. Miller plans on offering for sale high end and expensive automobiles such as Mercedes, BMW and Audi. He also intends to service those vehicles in the small shop area to the rear of the property. The subject property is located adjacent to other established automobile sales operations that have existed in this area of Liberty Road for many years. The continued use of this property by Mr. Miller for the purpose of selling automobiles will pose no problems to the surrounding neighborhood. I see no reason why the special hearing request should not be granted.

In addition, the use of the small shop area to the rear of the existing sales office building shall also be permitted to be utilized for service garage work by Mr. Miller and his associates. Mr. Miller stated that he intends to do mechanical work only and does not intend to perform any body or fender work. However, it should be noted that immediately to the rear of that small four bay garage exists a rather large paint, body and fender business known as Vince's Body Shop. I see no reason why Mr. Miller should not be permitted to provide service work in the small shop to the rear of his building. Therefore, the special hearing shall be approved in that regard.

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Date 4-25-11

By [Signature]

Lastly, the Petitioner is requesting special hearing approval for a modified parking plan in accordance with Section 409.12 of the B.C.Z.R. The site plan of the property submitted into evidence depicting the display area for vehicles for sale as well as the parking area for customers and employees is well designed and has functioned well with the previous owner. Therefore, there is no need to change or alter the manner in which this design has functioned for the past many years. The testimony offered on behalf of Mr. Wells demonstrated that the design and layout of the parking is appropriate and accordingly I shall approve this modified parking plan in accordance with Section 409.12 of the B.C.Z.R. To do otherwise would create an undue hardship upon the Applicant and approval is hereby granted.

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

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 25th day of April, 2011, that the Petitioner's request for Special Hearing relief, filed pursuant to Sections 500.6 and 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") specifically requesting:

- The striking of applicable conditions precedent to the Special Exception approval in Case 93-381-X approving the use of the property for the sale of previously owned automobiles in order to permit the contract purchaser to utilize the property as it is presently used in accordance with Section 236 of the B.C.Z.R.; and
- Approval of a modified parking plan per Section 409.12 of the B.C.Z.R.

be and are hereby GRANTED, subject to the following restriction:

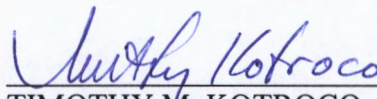
ORDER RECEIVED FOR FILING

Date 4-25-11

By [Signature]

1. Petitioner is hereby made aware that proceeding at this time is at its 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 Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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



TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/pz

ORDER RECEIVED FOR FILING

Date 4-25-11

By J



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
TIMOTHY M. KOTROCO
Administrative Law Judges

April 25, 2011

LAWRENCE E. SCHMIDT, ESQUIRE
SMITH, GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE, SUITE 200
TOWSON, MD 21204

Re: Petition for Special Hearing
Case No. 2011-0269-SPH
Property: 9330 Liberty Road

Dear Mr. Schmidt:

Enclosed please find the decision rendered in the above-captioned case.

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.

Sincerely,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/pz

Enclosure



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 9330 Liberty Road

which is presently zoned BR-AS

(This petition **must** be filed in person, in the zoning office, in triplicate, with original signatures.)

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

(This box to be completed by planner)

PLEASE 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:

Chip Miller, Authorized Representative for Stellar Cars, LLC

Name - Type or Print

Chip Miller

Signature

16010 Carroll Road (443)-956-5544

Address

Telephone No.

Monkton

MD

21111

City

State

Zip Code

Attorney For Petitioner:

Jason T. Vettori

Name - Type or Print

Signature

Smith, Gildea & Schmidt, LLC

Company

600 Washington Avenue, Suite 200 (410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

Legal Owner(s):

Demetrios Vagelakos, Authorized Representative for 9330 Liberty Road Acquisition, LLC

Name - Type or Print

Demetrios Vagelakos

Signature

Demetrios Vagelakos

Name - Type or Print

Signature

1005 Beards Hill Road (410) 852-4740

Address

Telephone No.

Aberdeen

MD

21001

City

State

Zip Code

Representative to be Contacted:

Jason T. Vettori, Smith, Gildea & Schmidt, LLC

Name

600 Washington Avenue, Suite 200 (410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

ORDER RECEIVED FOR FILING

Date 4-25-11

By Case No. 2011-0269-SPH

REV 9/15/98

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By

Date

3/10/11

ATTACHMENT TO PETITION FOR SPECIAL HEARING

9330 Liberty Road

Petition for Special Hearing relief in accordance with Sections 500.6 & 500.7 of the Baltimore County Zoning Regulations ("BCZR") to determine whether or not the Zoning Commissioner should approve:

1. The striking of applicable conditions precedent to the Special Exception approval in Case No. 93-381-X approving the use of the property for the sale of previously owned automobiles in order to permit the contract purchaser to utilize the property as it is presently used in accordance with Section 236 of the BCZR; and
2. A modified parking plan per Section 409.12 of the BCZR; and
3. Such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

0269-SPH

kjWellsInc
Land Surveying and Site Planning

Telephone: (410) 592-8800
Fax: (410) 817-4055
Email: kwells@kjwellsinc.com

7403 New Cut Road
Kingsville, Md. 21087-1132

March 9, 2011

Zoning Description
9330 Liberty Road
Baltimore County
Maryland
2nd Election District
4th Councilmanic District

Beginning at a point located at the intersection formed by the northeast side of Liberty Road (66 feet wide) and the southeast side of Burmount Avenue (width varies) said point being 25 feet more or less from the centerline of Burmount Avenue thence the following courses and distances:

- 1) North 25 degrees 54 minutes 00 seconds East 136.96 feet
- 2) With a line curving to the right having a radius of 290.00 feet and an arc length of 67.80 feet being subtended by a chord bearing and distance North 40 degrees 01 minutes 09 seconds East 67.64 feet
- 3) South 62 degrees 02 minutes 00 seconds East 183.15 feet
- 4) South 38 degrees 03 minutes 00 seconds West 199.85 feet
- 5) North 52 degrees 02 minutes 00 seconds West 149.68 feet

to the place of beginning. Containing 0.797 acres of land more or less as recorded in Baltimore County Land Records in Liber 29585 folio 316.



Case No.: 2011-0269-SPH

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	Site Plan of Property	
No. 2	Photos of Site & Surrounding Properties	
No. 3	Aerial of the Site	
No. 4	Old zoning decision in case 95-162 A	
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

PETITIONER'S

EXHIBIT NO. 2

PRESTIGE
IMPORTS















9330 Liberty Road, Randallstown, MD 21133



PETITIONER'S
EXHIBIT NO. 3

IN RE:	PETITION FOR ZONING VARIANCE *	BEFORE THE
	NEC Liberty Road and Burmont	
	Avenue *	ZONING COMMISSIONER
	9330 Liberty Road	
	2nd Election District *	OF BALTIMORE COUNTY
	2nd Councilmanic District	
	Athanasios I. Markides *	Case No. 95-162-A
	Petitioner	
	* * * * *	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for a Zoning Variance for the property located at 9330 Liberty Road in Randallstown. The Petition is filed by Athanasios I. Markides, property owner. Relief is requested from Section 238.2 of the Baltimore County Zoning Regulations (BCZR) to extend a deficient setback and to allow a side yard setback of 20 ft. in lieu of the required 30 ft. The subject property and requested relief are more particularly shown on Petitioner's Exhibit No. 1, the site plan.

Appearing at the requisite public hearing held for this case was the aforementioned Athanasios I. Markides, property. He was represented by Matthew T. Angotti, Esquire. There were no Protestants or other interested persons present.

Testimony and evidence presented was that the subject site is a commercial property which fronts Liberty Road in Randallstown. Presently, the site is used as the place of business for Prestige Imports, an automobile dealership. The dealership specializes in the sale of used custom vehicles. In fact, the proposed use was subject to a Petition for Special Exception which was granted by this Zoning Commissioner under case No. 93-381-X. The opinion and Order issued in that case on June 11, 1993 (Petitioner's Exhibit No. 3), is specifically incorporated and adopted herein.

ORDER RECEIVED FOR FILING
 Date 12/6/98
 By M. Markides

MICROFILMED

Proffered testimony on behalf of Mr. Markides was that the business opened in the Summer of 1993. During last year's severe Winter, the property owner determined that an enclosed area was necessary for the storage of certain materials used in the preparation and cleaning of the automobiles. Also, the area was needed as a place where cars could be prepped for final sale. Thus, a small shed was built and attached to the rear of the existing structure. The shed is clearly shown on the site plan and is situated 20 ft. from the side property line. Although that distance is identical to the setback to the building, the building is apparently quite old and predates the setback regulations. However, the requested variance is necessary to approve the proposed shed.

A review of the uses on the surrounding property show that they are also commercial in nature. Therefore, there will be no adverse impact upon surrounding properties by the grant of the variance and allowing the shed to remain where located. Moreover, locating the shed on other parts of the site would disrupt the traffic and parking pattern, and cause the Petitioner a practical difficulty. For these reasons, I am persuaded that the Petition for Variance should be granted.

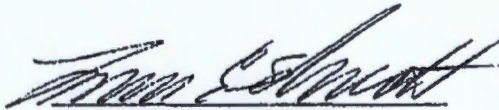
Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 6th day of December, 1994 that a variance from Section 238.2 of the Baltimore County Zoning Regulations (BCZR) to extend a deficient setback and to allow a side yard setback of 20 ft., in lieu of the required 30 ft., be and is hereby GRANTED, subject, however, to the following restriction which are conditions precedent to the relief granted herein:

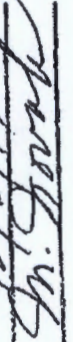
MICROFILMED

COPIES FOR FILING
6/26/94
By: Mr. [Signature]

1. The 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 property to its original condition.


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES/mnn

ORDER RECEIVED FOR FILING
FILED
12/6/90
By: 

RECEIVED

IN RE: PETITION ZONING VARIANCES
NE/corner of Liberty Road and
Burmout Avenue - 2nd Election
District

Pearlstein-Levitt Investments,
Petitioner

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 84-250-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests variances to permit side yard setbacks of six feet and 28 feet instead of the required 30 feet and to permit to have 37 parking spaces instead of the required 44 spaces, as more particularly shown on Petitioner's Exhibit 1.

The Petitioner, by its Counsel, appeared. Testifying for the Petitioner were Henry Sadler, a registered engineer, and Gordon Mueller, the leasing agent. No Protestants appeared.

Testimony indicated that the subject property is zoned B.R. and that a 125' x 50' commercial building consisting of two levels is proposed. The upper level will be built on grade fronting Liberty Road and the lower level will be on grade in the rear as the site slopes to the rear. The proposed building will have five or six retail units, including a major convenience store, and five or six office units which will be located on the lower level in the rear.

The requested variances are necessary because the lot is not large enough to accommodate the building size with the required setbacks. The size is dictated by the financial considerations which have been required of the Petitioner. The County is requiring that Burmout Avenue, bordering the site to the west, must be widened and improved at the expense of the Petitioner. About one-half of an acre will be taken in order to do so. Also, frontage on Liberty Road will be taken to improve that side as well. This cost requires that the building be able to return a reasonable investment and that the proposed size be

ORDER RECEIVED FOR FILING

DATE April 6, 1984

BY Mary Campagna (Clerk)

allowed. Anything less would make this project cost ineffective and cause it to be abandoned. Also, the topography and the configuration of the site limit the building location.

In the professional opinion of Mr. Sadler, the requirements of Section 307 of the Baltimore County Zoning Regulations (BCZR) have been complied with, and there would be no adverse effect on the health, safety, and general welfare of the community. He testified that the proposed project would not adversely impact traffic and would not cause additional congestion on Liberty Road. The development and improvement of Burmont Avenue to a width of 40 feet (with a right of way of 60 feet) would allow easy ingress and egress to the site. Access would be from Liberty Road and Burmont Avenue. Mr. Sadler indicated that the available parking proposed would be more than sufficient.

Mr. Mueller, based on his experience, testified that 44 spaces would never be utilized in their entirety. The uses proposed would be aimed at patrons who want convenience and speed, and there would be no need for the extra spaces. Additionally, if the building's location were changed, less parking spaces than requested would result.

The Petitioner has discussed these requests with the immediate neighbor, Josh Levin's, an interior decorator, whose building is directly on the adjoining property line. Josh Levin's does not oppose the requested variances.

The Petitioner seeks relief from Sections 238.2 and 409.2.(b), pursuant to Section 307, BCZR.

area variance may be granted where strict application of the zoning regulation would cause practical difficulty to the petitioner and his property.

See v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

1. whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

UNDER RECEIVED FOR FILING

DATE April 6, 1984

BY Mary Campbell Clerk

2. whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
3. whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances were granted, such use as proposed would not be contrary to the spirit of the BCZR and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the instant variances were not granted. It has been established that the requirement the Petitioner seeks relief from here would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety, and general welfare.

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

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 6th day of April, 1984, that the Petition for Variances to permit side yard setbacks of six feet and 28 feet instead of the required 30 feet and 37 parking spaces instead of the required 44 spaces be and is hereby GRANTED, and after the date of this Order, subject, however, to the following restrictions:

1. The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Peti-

ORDER RECEIVED FOR FILING

DATE April 6, 1984
BY Mary Campagna (clerk)
ADMINISTRATIVE ASSISTANT

ORDER RECEIVED FOR FILING

DATE

April 6, 1984

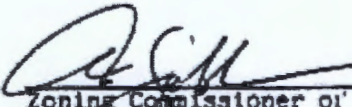
BY

Mary Campagna (Date)

ADMINISTRATIVE ASSISTANT

tioner would be required to return, and be responsible for returning, said property to its original condition.

2. A detailed landscaping plan shall be submitted for approval to the Current Planning and Development Division.
3. Compliance with the comments submitted by the Baltimore County Zoning Plans Advisory Committee (ZPAC), which are adopted in their entirety and made a part of this Order.


Zoning Commissioner of
Baltimore County

PETITION FOR ZONING VARIANCE

84-250-A

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

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 Variance from Section 238.2 to permit a side yard setbacks of 6' and 28' instead of the required 30' and 409.2 b to permit 37 parking spaces instead of the required 44.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

In order for Petitioner to construct its contemplated project within the existing RCZR zoning classification presently granted to the subject property, the County will require Petitioner to perform quite costly and extensive repair and reconstructive work on Burmont Avenue. Such work, when added to Petitioner's regular development costs, render development of the project within the existing zoning classification economically unfeasible.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound 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.

FILED
12/15
BY [Signature]
[Initials]

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

SANFORD R. CARDIN

(Type or Print Name)

Signature

SUITE 301, 6615 REISTERSTOWN ROAD

Address

BALTIMORE, MARYLAND 21215

City and State

Attorney's Telephone No.: 358-7411

Legal Owner(s):

PEARLSTEIN - LEVITT INVESTMENT

(Type or Print Name)

Signature ALLAN H. PEARLSTEIN

(Type or Print Name)

Signature JEFFREY A. LEVITT

25 LIGHT STREET

Address

BALTIMORE, MARYLAND

City and State

737-3357

Phone No.

21202

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

SANFORD R. CARDIN

Name

6615 REISTERSTOWN ROAD

Address

358-7411

Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 14th day

of February 1984, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore

County, on the 29th day of March, 1984, at 11:00 o'clock

A.M.

[Signature]
Zoning Commissioner of Baltimore County.

(over)

4/3

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
Intersection of Liberty Rd. and *
Burmout Avenue * ZONING COMMISSIONER
9330 Liberty Rd.-Prestige Imports *
2nd Election District * OF BALTIMORE COUNTY
2nd Councilmanic District
Legal Owner: Bernard Koman * CASE # 93-381-X
Contract Purchaser: Tom Markides
Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Exception for the property located at 9330 Liberty Road near the Randallstown community of Baltimore County. The Petition was originally filed by Bernard Koman, then owner of the subject parcel. However, subsequent to the filing of the Petition, but prior to the public hearing, the property was purchased by Tom Markides. Mr. Markides is identified in the Petition as Contract Purchaser. Mr. Markides is Chief Executive Officer of Prestige Imports, the business entity that wishes to occupy the site.

Under the Petition for Special Exception, Mr. Markides seeks approval for the use of the property for the sale of previously owned automobiles pursuant to Section 236.4 of the Baltimore County Zoning Regulations (B.C.Z.R.). The site is zoned B.R. Used motor vehicle sales facilities are permitted in that zone only by special exception.

Appearing at the public hearing held for this case was Dimitri Yiannouris, Sales Manager of Prestige Imports. Mr. Yiannouris explained that Mr. Markides was out of the country attending a family member's wedding at the time of the public hearing and could, therefore, not attend. Also appearing was Dimitri Hodges, the Civil Engineer who prepared the plat to accompany the Petition for Special Exception, marked as Petitioner's Exhibit No. 1. The Petitioner was represented by Matthew T. Angotti, Esquire. Also appearing at the public hearing was Emily Wolfson of the Liber-

ty Community Development Corporation. If properly restricted, she supports the proposed special exception use. Also appearing was Ethel M. Carter, a neighbor, who opposes the Petition.

Mr. Hodges testified and presented the plan. That plan notes that the subject site is .797 acres and is zoned B.R. As noted above, the property is located on Liberty Road in Randallstown. There are numerous commercial uses along that stretch of Liberty Road near where the property is located. Specifically, surrounding the site is an automobile repair shop, automobile dealership and similar commercial uses. Mr. Hodges noted that the site had originally obtained C.R.G. approval approximately four years ago. At that time, the site was developed for the business known as Larry's Mazda, a new car dealership. A one-story automobile showroom building was constructed which is approximately 4,000 sq. ft. in area. The Petitioner desires to utilize that existing structure for its used car business. Mr. Hodges noted that, other than renovations to the building, there will be no exterior changes or new construction on site. The plat shows a sufficient number of parking spaces to the rear of the existing building which will be used for display/storage of vehicles and parking. Further, vehicles will be displayed towards the front of the site adjacent to Liberty Road and within the existing one-story showroom building. Further, Mr. Hodges testified that the site is already served by existing public utilities, and there is a storm water management system in place. In Mr. Hodges' view, the proposed business will have no adverse impact on the health, safety and general welfare of the community, as set forth in Section 502.1 of the B.C.Z.R.

Mr. Yiannouris also testified and fully described the nature of the proposed business. He noted that Prestige Imports is presently located in Baltimore City and has been at its existing location for approximately four

years. The nature of the business is to sell expensive late model used cars. All of the cars sold are imports such as BMW, Lexus, Mercedes, etc. Mr. Yiannouris indicated that the business has outgrown its present location and the owner desires to relocate to the subject site. He described fully the nature of the business and the type of automobiles and clientele. He indicated that many of the vehicles have a sales price of over \$25,000. Presently, approximately 20 cars are kept as inventory, however, it is hoped that this number will be expanded at the subject location, which is larger than the present site. Further, the business hours of operations are Monday through Friday, 10:00 A.M. to 8:00 P.M., and Saturday, 10:00 A.M. to 6:00 P.M. The business is closed on Sunday.

Mr. Yiannouris also observed that the business will only sell used cars and there will be no service work performed on site. There will be a small amount of detailing and vehicle prep performed on site prior to the delivery of a vehicle, but no significant mechanical work will take place. Any repairs or overhauls of vehicles sold by the dealership are done offsite at dealer's or other service garages.

Also testifying at the hearing was Emily Wolfson of the Liberty Community Development Corporation. She noted that the site is presently vacant and applauds the Petitioner's efforts to convert the vacant property to a business. However, she is concerned about the potential adverse effects of the business on the neighborhood. Therefore, she requests that certain landscaping and similar improvements be made to the site. Also, she desires to restrict the special exception to Mr. Markides and his business only. That is, although supporting Prestige Imports and its high quality operation, she does not want low price/high volume dealership, or service garage, at this locale.

Mr. Wolfson's comments were echoed by Ethel M. Carter, the President of Kings Park Community Association. However, in addition to these concerns, Ms. Carter expressed reservations about the proposed use of the site and generally opposes used car dealerships in the Randallstown area. She is also particularly concerned about the existing lighting on site. She observed that same reflects into Liberty Road and adjoining properties nearby.

As with all zoning petitions, the subject Petition for Special Exception was referred to the Zoning Plans Advisory Committee (ZAC) for review and comment. Comments were received from the various reviewing agencies of Baltimore County; among them, a comment from the Office of Planning and Zoning. That agency's comment supported the proposal but suggested additional landscaping to the property, replacement of existing lighting and a prohibition on service garage activity on site.

As noted above, the proposed use is permitted by special exception, pursuant to Section 236.4 of the B.C.Z.R. A special exception use is a use which has been predetermined by the Baltimore County Council to be conditionally compatible with the uses permitted as of right in a particular zone. The Zoning Commissioner must decide in each case whether the presumptive compatibility exists, pursuant to the standards set forth in Section 502 of the B.C.Z.R. See e.g., Rockville Fuel and Feed Company, Inc., v. Board of Appeals of the City of Gaithersburg, 257 Md. 183, 262 A.2d 499 (1970).

The Petitioner has the burden of adducing testimony and evidence to show that the proposed use meets the prescribed standards and requirements. He does not have to show that the proposed use will be a benefit to the community, only that said use will be conducted without real detriment to the neighborhood and will not adversely effect the public interest.

In the instant case, I am persuaded that the Petitioner has met its burden. It is particularly significant that a similar use recently existed on this site. Thus, there is a "track record" to support the Petitioner's contention that the proposed automobile sales business can be operated without any detriment to the community and that the special exception should, therefore, be granted. Based upon the testimony and evidence presented, I am persuaded that the Petitioner has satisfied its burden at law and that the standards set forth in Section 502.1 of the B.C.Z.R. have been met.

Notwithstanding my conclusion, however, I concur with the comments offered by the Office of Planning and Zoning and echoed by Mrs. Wolfson and Mrs. Carter. Therefore, to ensure that the use will not detrimentally affect the area, I shall include certain restrictions to my Order. These shall include improvements to the site both as to landscaping and correction of the existing lighting. Further, I shall restrict the special exception to this Petitioner and his business only.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 11th day of June, 1993 that the Petition for Special Exception seeking approval for the sale of previously owned automobiles, pursuant to Section 236.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The 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

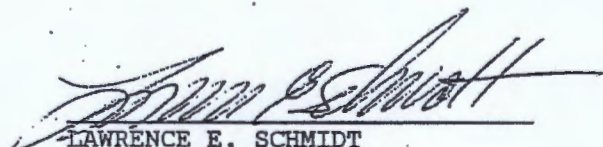
returning, said property to its original condition.

2. A correction shall be made to the existing lighting at this site. All exterior lighting will be directed only onto the subject property, and will not reflect offsite, either onto the adjacent properties or the adjacent roadway. The corrected lighting scheme shall be reviewed by a representative from the Department of Public Works and proof of said inspection and compliance with this Order shall be submitted to the Zoning Commissioner for inclusion in the case file, and same shall be submitted within 120 days hereof.

3. The Petitioner shall submit a landscape plan to be reviewed and approved by the Baltimore County Landscape Architect. The plan shall be in accordance with the Baltimore County Landscape Manual and consistent with the 1990 Liberty Action Plan Update.

4. The special exception granted herein is personal only to the subject Petitioner and his business, Prestige Imports. It is the intent of this restriction that if the nature of the business changes, so that other than expensive imported used motor vehicles are sold, the property owner must file a Petition for Special Hearing to amend the relief requested herein. Further, if the identity of the principals, who operate the current business is changed, the authority allowed within the subject Petition for Special Exception shall also be forfeited, unless a public hearing (special hearing) is held to formally approve a different business/ownership.

5. There shall be no service garage work performed within the structure or on the subject property at any time.


LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmm

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
9330 Liberty Road; NE/side of Liberty Rd.	*	ZONING COMMISSIONER
at corner of East side Burmont Ave.	*	
2 nd Election & 4 th Councilmanic Districts	*	FOR
Legal Owner: Demetrios Vagelakos	*	
Contract Purchaser: Chip Miller for Stellar	*	BALTIMORE COUNTY
Cars, LLC	*	
Petitioner(s)	*	2011-0269-SPH

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party 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 and all documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of March, 2011, a copy of the foregoing Entry of Appearance was mailed to Jason T. Vettori, Smith, Gildea & Schmidt, LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Laurence Schudt

- Leo "Chip" Miller

Stellar cars LLC

property

- Liberty Rd + Burmont Ave

- Antwerpen across the Street

- Liberty Ford

BR-AS

- 2 existing curb cuts

-

Zoning History

(1st case) 1984 - zoning variances for proposed commercial Bldg.

(2nd case) - 93-381X -

prestige Motors - SPX was granted
2 restrictions - #4 + #5 Business operated by
Mr MerKidas still there
transferring business to Miller

#5 - "no service garage w/ the dealership"

1995 95-1621A - to Add a "Shop" area to the rear of the Bldg - was granted

"Mechanical work only" - in the Shop area

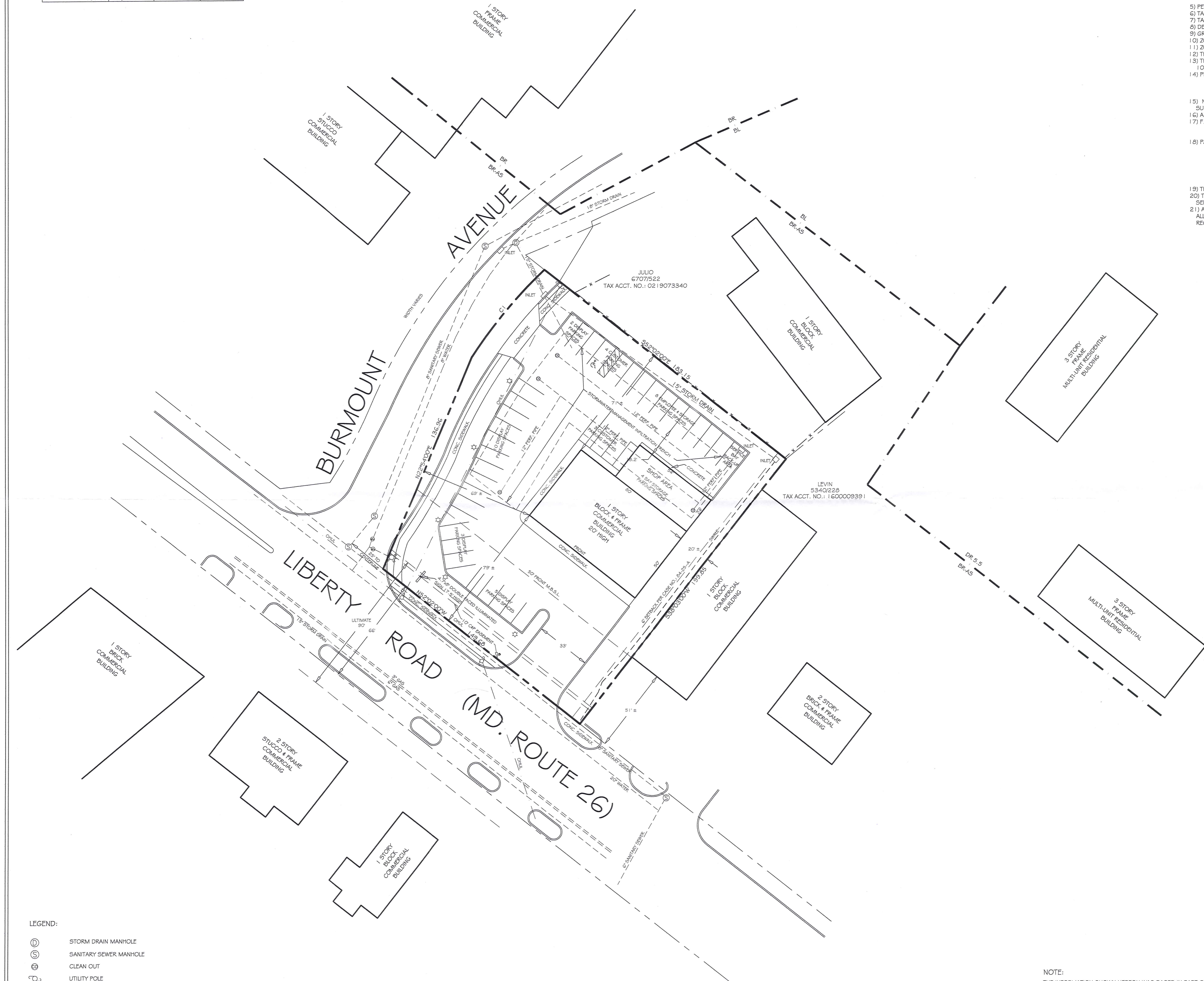
* Modified parking Plan

1993 plan - did not show addition
- display & other parking

- Continue w/ existing signage

USE	AREA	PARKING REQ'D.	TOTAL REQ'D.
SHOWROOM	3,200	5/1,000SF	16
OFFICE	800	3.3/1,000SF	3
SHOP AREA	1,296	3.3/1,000SF	5
TOTALS	5,300SF		24

CURVE TABLE						
CURVE	LENGTH	RADIUS	CHORD BRG.	CHORD	TANGENT	DELTA
C1	67.80	290.00	N40°01'09"E	67.64	34.05	132°34'40"



- LEGEND:
- | | |
|---|-------------------------|
|  | STORM DRAIN MANHOLE |
|  | SANITARY SEWER MANHOLE |
|  | CLEAN OUT |
|  | UTILITY POLE |
|  | GUY WIRE |
|  | LIGHT POLE |
|  | WATER VALVE |
|  | FIRE HYDRANT |
|  | SIGN |
|  | OVERHEAD UTILITY LINE/S |

1) OWNERS: 9330 LIBERTY ROAD ACQUISITION, LLC.
2) OWNERS ADDRESS: 1005 BEARDS HILL ROAD
ABERDEEN, MARYLAND 21001

3) PETITIONER: LEO V. W. 16010 CARROLL ROAD
MONKTON, MARYLAND 21111

5) PETITIONERS TELEPHONE NO.: 443-556-5544

6) TAX ACCOUNT NUMBERS: 02020000524

7) TAX MAP: 77 GRID: 7 PARCELS: 6

8) DEED REFERENCES: 29985/81/3

9) GROSS AREA: 0.80 ACRES

10) ZONING MAP: 077A1

11) ZONING: BR-45 = 0.80 ACRES

12) THE SUBJECT PROPERTY DOES NOT LIE WITHIN THE CBCA.

13) THE SUBJECT PROPERTY IS NOT LOCATED WITHIN A
100-YEAR FLOOD PLAIN PER FEMA MAP 24001 00360F.

14) PREVIOUS HEARINGS, PERMITS OR CRG:
PREVIOUS CRG: 2008/03/27 APPROVED ON 2/8/09
SEE PREVIOUS HEARINGS NOTE BELOW

15) SEE PREVIOUS PERMITS NOTE BELOW

16) NO HAZARDOUS MATERIALS OR STRUCTURES ON THE
SUBJECT PROPERTY.

17) AMENITY OPEN SPACE: NONE REQUIRED

17) F.A.R.:

ALLOWED: 2
PROPOSED: 5,296/34,717 = 0.15

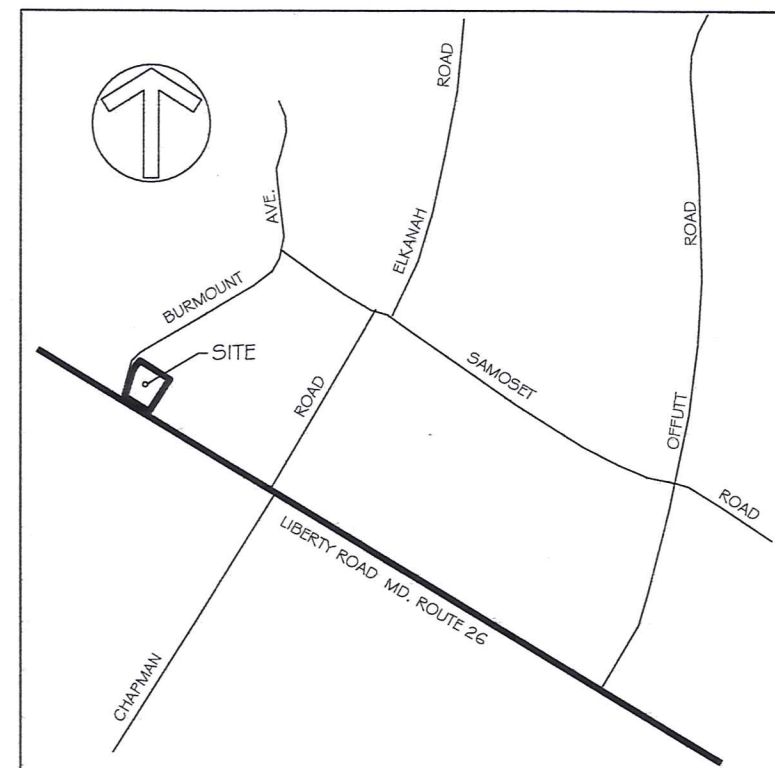
18) PARKING:
REQUIRED: 24 SPACES SEE TABULATION TABLE
PROVIDED:

DISPLAY = 20 SPACES
CUSTOMER = 7 SPACES
EMPLOYEE 4 STORAGE = 12 SPACES
TOTAL = 39 SPACES

19) THE SUBJECT SITE IS SERVED BY PUBLIC WATER OR SEWER

20) THE SUBJECT SITE DOES NOT LIE WITHIN A DEFICIENT
SERVICE AREA.

21) ALL EXISTING WALL MOUNTED SIGNS ARE TO BE REMOVED.
22) THE SITE IS TO BE CONFORM WITH THE TABLE OF SIGN
REGULATIONS OF SECTION 450.6 OF THE CBCR.



VICINITY MAP
SCALE: 1" = 1,000'

VARIANCE:
TO PERMIT A SIDE YARD SETBACK OF 20 FEET IN LIEU OF THE REQUIRED
30 FEET.

CASE NO. 93-381-X
THIS ORDER GRANTED THE FOLLOWING ON 6/11/1993:

SPECIAL EXCEPTION:
APPROVAL FOR THE SALE OF PREVIOUSLY OWNED AUTOMOBILES
SUBJECT TO RESTRICTIONS WHICH INCLUDED THAT THE APPROVAL
WAS PERSONAL ONLY TO THE PETITIONER, TOM MARKIDES.

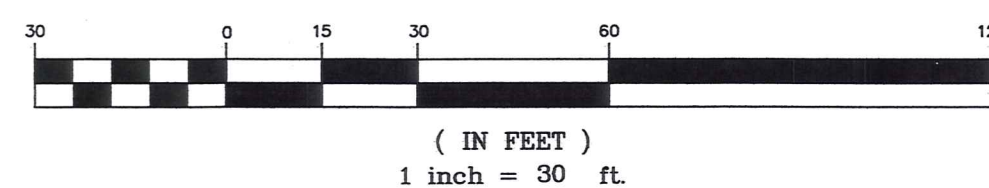
CASE NO. 84-250-A
THIS ORDER GRANTED THE FOLLOWING ON 4/6/1984:

VARIANCE:
TO PERMIT SIDE YARD SETBACKS OF 6 FEET AND 28 FEET IN LIEU OF THE
REQUIRED 30 AND 37 PARKING SPACES IN LIEU OF THE REQUIRED 44
SPACES WAS GRANTED AND WAS SUBJECT TO RESTRICTIONS.

1. THE STRIKING OF APPLICABLE CONDITIONS PRECEDENT TO THE SPECIAL EXCEPTION APPROVAL IN CASE NO. 93-381-X APPROXING THE USE OF THE PROPERTY FOR THE SALE OF PREVIOUSLY OWNED AUTOMOBILES IN ORDER TO PERMIT THE CONTRACT PURCHASER TO UTILIZE THE PROPERTY AS IT IS PRESENTLY USED IN ACCORDANCE WITH SECTION 236 OF THE BCZR; AND
2. A MODIFIED PARKING PLAN PER SECTION 409.12 OF THE BCZR; AND
3. SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

EXHIBIT NO.

GRAPHIC SCALE

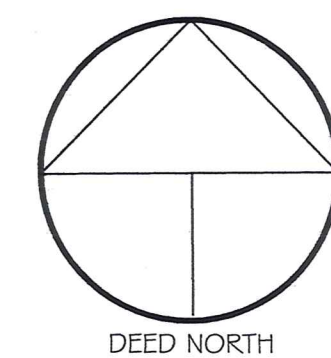
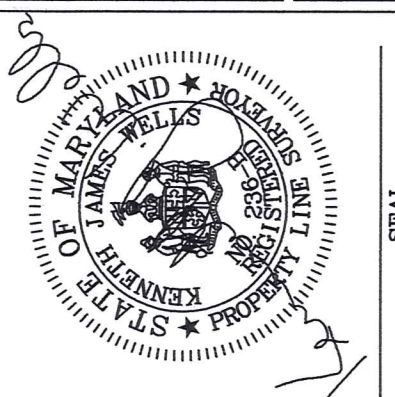


NOTE:

THE INFORMATION SHOWN HEREON WAS BASED IN PART ON A CRG PLAN AND STORMWATER MANAGEMENT PLANS PREPARED BY APR ASSOCIATES, INC. ENTITLED "LARRY'S CHEVROLET", BALTIMORE COUNTY OFFICIAL ZONING MAP 077A1, UTILITY DRAWINGS PROVIDED BY BALTIMORE COUNTY, MD, AND AERIAL IMAGING FROM GOOGLE EARTH. THE INFORMATION SHOW HEREON AND THE CONTENT OF THIS PLAN ARE NOT TO BE USED FOR ANY OTHER PURPOSES THAN TO ACCOMPANY A PETITION FOR A SPECIAL HEARING FOR THE SPECIFIED REQUESTS. USE OF THIS PLAN FOR OTHER PURPOSES WILL BE DONE AT USER'S OWN RISK.

Wells Inc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Land Surveying & Site Planning



REVISIONS:	
NO.	DATE

1	MARCH 16, 2011
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PLAN TO ACCOMPANY A PETITION
FOR A
SPECIAL HEARING
9330 LIBERTY ROAD

BALTIMORE COUNTY, MARYLAND
2nd ELECTION DISTRICT 4th COUNCILMANIC DISTRICT

DRAWN BY: KJW
CHECKED BY: KJW
DATE: 3/08/2011

PROJECT NO. :

2011-009

SHEET 1 OF 1