Copies: White-Office; Yellow- Applicant (keep this Copy for your permanent records)

REV 10/14

up-2017-0095-SI **BALTIMORE COUNTY**

DEPARTMENT OF PERMITS, APPROVALS & INSPECTIONS

111 WEST CHESAPEAKE AVENUE TOWSON, MD 21204

410-887-3391

SIGN USE PERMIT

The applicant is authorized to affirm that there are no current violations at this

site pursuant to Section

Permit Fees are Non-Refundable; Make Check Payable to "Baltimore County, Maryland" Initials 2.6.
PROPERTY ADDRESS 10540 Reisterstown Rd Owings Mills MD ZIP CODE 21117
BUSINESS NAME EXXON ZONING BL- AS
OWNER'S NAME Suthside Oil LLC PHONE NO. 610 -233-3877 HISTORIC DISTRICT Yes No.
MAILING ADDRESS 1900 Delrock Rd. Rothell Tx. 75808
APPLICANT/OWNER'S AGENT Ken Padgett PHONE NO. 301-370-2126
SIGN COMPANY NAME JAM Services Inc PHONE NO. 301-622-4290
TYPE OF SIGN: TAX ACCOUNT NO. 040 / 302 / 580 Z
Temporary- Including Real Estate/Construction/Event Temporary Signs in the Last Year: Yes No
Permanent 📈 Changeable Copy 🔲 Wall 💢 Face Change Only 🔲 Non-Illuminated
Freestanding Pylon Monument Illuminated (separate electrical permit required)
Size: 8^{-93} feet x 8^{-93} feet = $7/44$ square feet Height: 25 feet (freestanding signs)
Property Line/Street Right-of-Way Setbacks: front
NOTE: A construction plan, drawn to scale and clearly showing that all requirements have been met, must be attached; a site plan also
must be attached for freestanding signs.
 Table of Sign Regulations: 450.4.Attachment 1, 1 An Electronic Changeable Copy Sign may only have a maximum Frequency of on instantaneous message change per 15 second cycle. 450.6.B.3 Changeable copy signs must operate at a constant intensity and not give the appearance of movement by flashing, blinking, strobing, scrolling, oscillating, or alternating lights. PROHIBITIONS: including roof signs (Sections 450.5.B.7 and 450.6.A, Baltimore County Zoning Regulations): 1. Signs cannot impair motorist's clear view of traffic or government signs. All signs are subject to Section 102.5, BCZR. 2. Signs cannot imitate or resemble government signs, except for private traffic control and notice signs. 3. Signs cannot be placed in or project into or above street right of way or governmental property. 4. Sign or framework cannot obstruct window or opening for light and air or access to building, fire hydrant, or stand pipe. 5. Vehicle cannot be parked for the purpose of displaying an attached sign. 6. Except for flags exempted, flags, pennants, ribbons, streamers, tethered balloons, laser projections, and similar objects are prohibited. 7. Portable signs are prohibited, except for A-frame and sandwich board signs issued a use permit in B.M. – C.T. zones. 8. There can be no display or simulation of moving parts or message, except for an outdoor advertising sign with tri-vision, a changeable copy sign, or a thermometer, barometer, weather vane, barber pole, or clock. 9. No sign may emit sound Work Description (including number of signs, special conditions, materials, locations and size):
96-146SPHXACORNER LOT
OWNER/AGENT CERTIFICATION I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the above are true and furthe agree to locate the proposed sign such that it will not violate Baltimore County laws and regulations. Value V
Require Planning Signature Date
Copies: White-Office; Yellow- Applicant (keep Authority under Section 500.4, BCZR PAI Approval (SIGN ONLY)

Signature

Initials

Date



Permits, Approvals & Inspections

111 W. Chesapeake Avenue Towson, MD 21204 Report Generated On: 7/21/2017

Permit Processing Commerical Permit & Development Report

Page 1 of 1

Property Information

Tax Account Number: 0403023802

Election District: 4

Owner Name(s): SOUTHSIDE OIL LLC

PDM #:

Address: % K E ANDREWS & CO 1900 DALROCK ROAD

Zoning District(s): BL AS

ROWLETT,TX 75088

Premise Address: 10540 REISTERSTOWN RD

Elevation Range: 478ft - 482ft

Fremise Address. 10040 INCIOTENTION														
Affected Overlays	Instructions: Begin review process with Zoning Review, Room 111	Com Bldg.	Its.	Add / Ext. Alts.	sbu	NS.		Ret.Walls/Bulk		Occup.	Antenna		Plumb	Agency Acknowledgmer
	Potential Overlay Issues	Con	or A	Ext	/Pilli	ing/s	s,	Valls	gr.	of	er Ar	ιn	∞ŏ	Acknowledgiller
Contact Agency	Growth Tier 1: Served by public sewer and inside URDL	New	Interior Alts.	Add/	Piers/Pilings	Grading/SW	Tanks	Ret.\	Razing	Chg.	Tower	Signs	Elect	Initial & Date
DEPS-Sed. Control Jefferson Building 4th Floor Phone: 410-887-3226	Note: All Razing Permits must be sent to Sediment Control for review.												c	
PAI-Public Services County Office Building Room 119	Note: All permits for Grading, New Buildings & Building Additions must be sent to Public Services.													
Phone: 410-887-3751		,			-				de la constante de la constant	The Contraction of the Contracti		Methodological Association of the Control of the Co		
Zoning Review County Office Building Room 111 Phone: 410-887-3391	Zoning Cases: 1996-0146-SPHXA; R-1954-3289; R-1955-3590-X; R-1956-3828-X	X		X	X	X	X			X	X	X	(

Notice: This report is not inclusive as additional issues may arise which would affect the ability to obtain a building permit. This Report is solely for Departmental use and nothing herein creates any right which would accrue to the applicant. Form171C

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IN RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE -

NW/Corner Reisterstown Road

and Carlvon Road

(10540 Reisterstown Road) 4th Election District 3rd Councilmanic District BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

Case No. 96-146-SPHXA

Exxon Corporation

Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Hearing, Special Exception and Variance for that property known as 10540 Reisterstown Road, located in the vicinity of Owings Mills Boulevard in Owings Mills. The Petitions were filed by the owner of the property, Exxon Corporation, by Michael J. Specht, Agent/Attorney in Fact, through G. Scott Barhight, Esquire and David K. Gildea, Esquire. The Petitioner seeks approval of an amendment to the previously approved site plan in Case No. 3590-RX to reflect the proposed improvements, pursuant to the special exception and variance relief sought. More specifically, the Petitioner seeks a special exception for a convenience store usein-combination with the existing fuel service station and variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: From Section 405.4.A.3.d to permit five (5) parking spaces in lieu of the required 15; from Section 405.4.A.1 to permit a total site area of 14,908.37 sq.ft. in lieu of the minimum required 24,092.68 sq.ft.; from Section 413.2(f) to permit a double-sided sign of 132.52 sq.ft. in lieu of the maximum permitted 100 sq.ft.; from Section 405.4.A.2.a to permit a building setback of 9 feet from Carlvon Road in lieu of the required 35 feet; from Section 405.4.A.2.b to permit a landscape transition area in the rear yard of 1 foot in lieu of the required 6 feet; and, from Section

409.4.C to permit aisle widths of 17 feet, 12 feet, 7.3 feet, and 7.5 feet in lieu of the minimum required 22 feet. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petitions were Jennifer Colvard, a representative of Exxon Corporation, Ken Ayre, Proprietor of the subject site, Tim Whittie, Professional Engineer with Frederick Ward Associates, who prepared the site plan for this project, and David K. Gildea, Esquire, attorney for the Petitioner. There were no Protestants present.

Testimony and evidence offered revealed that the subject property consists of a net area of 14,908.37 sq.ft. (0.341 acres), zoned B.L.-A.S., and is improved with a gasoline service station. The Petitioner is desirous of converting the service garage portion of the building to a convenience store. Testimony indicated that Exxon is in the process of converting many of its gasoline service stations from those which offer automotive service repairs to those which offer fuel and miscellaneous items found in convenience stores. This is but another site where Exxon proposes to make such a conversion and to improve the appearance of the existing facility. Photographs of the site, which were submitted into evidence as Petitioner's Exhibit 2, show that the subject property is well-maintained and attractive in its appearance. In fact, Mr. Ayre testified that he has won awards from Exxon as being one of its 50 best gasoline service stations. looks forward to the proposed improvements to the site and its conversion to a convenience store use. In order to proceed with the proposed improvements, the requested relief is necessary. Testimony revealed that Exxon will utilize the existing building on the property and no new structures are proposed.

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

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

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

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below. The Petition for Special Hearing should also be granted to reflect the proposed modifications to the site

plan and change in use of the property from a gasoline service station to a convenience store use in combination with fuel sales.

As for the variance relief sought, Section 307.1 of the B.C.Z.R. has established a two-step process for the granting of variances. That two-step process was addressed and identified by the Court of Special Appeals in the case of <u>Cromwell v. Ward</u>, 102 Md. App. 691 (1995). The opinion in that case, issued January 4, 1995 and authored by the Honorable J. Cathell, interpreted our regulations to require the applicant to establish the following:

First, the Applicant (Petitioner) must prove, and this Deputy Zoning Commissioner must find, that the "property whereon structures are to be placed (or uses conducted) is -- in and of itself-- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property."

I find from the testimony and evidence presented in this case that the subject property is unique, unusual and different from properties which surround the subject site so as to cause this applicable zoning provision to impact disproportionately upon this particular parcel of land.

Having satisfied this "first step" the Applicant (Petitioner) must proceed to the "second step" of this variance process, which is to show that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guidelines that have been imposed by the Baltimore County Zoning Regulations (B.C.Z.R.) have been thoroughly examined and discussed by the appellate courts of this State. In Loyola Federal Savings and Loan Association v. Buschman,

227 Md. 243, 176 A.2d 355 (1961), the Court of Appeals considered the identical regulation to Section 307.1 of the B.C.Z.R.

As the Court noted: "Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive." Loyola Federal, p. 358. Thus, by the use of the term "or", Section 307 offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard.

The distinction between these standards was clarified by the Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. That is, to allow the change of use for a particular property requires the Petitioner to demonstrate real hardship, where the land cannot allow a reasonable return if used only in accordance with the use restrictions of the ordinance.

Compared with this heavy burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property line restrictions and would not affect the property's use, per se. The Court envisioned the impact of area variances on the surrounding locale to be less than that generated by use variances, and thus, the lesser practical difficulty standard applies. The prongs of that standard which must be satisfied by the Petition, as enunciated in Anderson, supra, are as follows:

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- 1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
- 2) whether a grant of the variance applied for would do substantial justice to an applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief to the owner of the property involved and be more consistent with that afforded other property owners; 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, p. 39. See also <u>McLean v. Soley</u>, 270 Md. 208 (1973) at pps. 214-215.

I find from the testimony and evidence presented at the hearing before me that the Applicants have in fact proven the practical difficulty standards as set forth above and that the relief requested should be granted. I further find that the granting of this variance is in strict harmony with the spirit and intent of the B.C.Z.R. and that the granting of this relief is accomplished without injury to the public health, safety or general welfare.

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

Ealtimore County this ______ day of January, 1996 that the Petition for Special Hearing seeking approval of an amendment to the previously approved site plan in Case No. 3590-RX to reflect the proposed improvements, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

- 5-

Date

ORDER RECEIVED FOR FILING
Date / Ord // By

IT IS FURTHER ORDERED that the Petition for Special Exception to permit a convenience store use-in-combination with the existing fuel service station on the subject property, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from the B.C.Z.R. as follows: From Section 405.4.A.3.d to permit 5 parking spaces in lieu of the required 15; from Section 405.4.A.1 to permit a total site area of 14,908.37 sq.ft. in lieu of the minimum required 24,092.68 sq.ft.; from Section 413.2(f) to permit a double-sided sign of 132.52 sq.ft. in lieu of the maximum permitted 100 sq.ft.; from Section 405.4.A.2.a to permit a building setback of 9 feet from Carlvon Road in lieu of the required 35 feet; from Section 405.4.A.2.b to permit a rear yard landscape transition area of 1 foot in lieu of the required 6 feet; and, from Section 409.4.C to permit aisle widths of 17 feet, 12 feet, 7.8 feet, and 7.5 feet in lieu of the minimum required 22 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall, be rescinded.

TIMOTHY M. KOTROCO

Deputy Zoning Commissioner

for Baltimore County

TMK:bjs





Everbrite	DISCLAIMER: Renderings are for graphic purposes only and not intended for actual construction dimensions. For windload requirements, actual dimensions, and mounting detail, please refer to engineering specifications and install drawings.										
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Customer: C:\Users\amaier		Description:	Customer Approval: Graphics and col	ors on file will be used unless otherwise specified by							
Project No:	Scale:		shown above, and to location of sign as sh	By signing below, you agree to graphics as own. Please return signed copy back to Everbrite.							
Date: 5/11/2017	Drawn By: AM										
Location & Site No.:		Revised:	CUSTOMER SIGNATURE	DATE							
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