



JOHN A. OLSZEWSKI, JR.
County Executive

MAUREEN E. MURPHY
Chief Administrative Law Judge
ANDREW M. BELT
Administrative Law Judge
DEREK J. BAUMGARDNER
Administrative Law Judge

January 25, 2024

Jennifer Busse, Esquire- jbusse@rosenbergmartin.com
Rosenberg Martin Greenberg, LLP
25 S. Charles Street, 21st Floor
Baltimore, MD 21201

RE: Petition for Special Hearing & Variance
Case No: 2023-0224-SPHA
Property: 4128 Kahlston Road

Dear Ms. Busse:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

Pursuant to Baltimore County Code § 32-3-401(a), "a person aggrieved or feeling aggrieved" by this Decision and Order 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 Office of Administrative Hearings at 410-887-3868.

Sincerely,

A handwritten signature in black ink that reads "Maureen E. Murphy". The signature is fluid and cursive, with the first name "Maureen" and last name "Murphy" clearly distinguishable.

MAUREEN E. MURPHY
Chief Administrative Law Judge
for Baltimore County

MEM:dlm
Enclosure
C: *See Next Page*

9654 Belair Road, Inc. – nicoleruppertkeelty@gmail.com
Ernest Thompson- ethompson@huberchurch.org
Ernest Thompson- elthompson3@gmail.com
J Amrhein- jamrhein@baltimorecountymd.gov
John Ruppert- jwruppert4@gmail.com
Nancy Kneisler- westernbound7@yahoo.com
Nicole Keelty- nicoleruppertkeelty@gmail.com
Pat Keller- pkeller57@verizon.net
Samantha Walters- swalters@baltimorecountymd.gov
Susan Keil - skeil1699@gmail.com
Gloria Kelly- g7kelly@yahoo.com
Lenny Turner - lennyturner1116@yahoo.com
Lisa Turner- lturner01@icloud.com
Mary Martin- martin.missy22@yahoo.com
Meg Powers- megga@verizon.net
Patrick Richardson- rick@richardsonengineering.net

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(4128 Kahlston Road)	*	OFFICE OF
11 th Election District		
5th Council District	*	ADMINISTRATIVE HEARINGS
9654 Belair Road, Inc.		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2023-0224-SPHA
* *	* *	* *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as Petitions for Special Hearing and Variance filed by legal owner, 9654 Belair Road, Inc., (the “Petitioner”) for the property located at 4128 Kahlston Road, Nottingham (the “Property”). A Petition for Special Hearing was filed pursuant to the Baltimore County Zoning Regulations (“BCZR”), §500.7 to:

- (1) confirm the continuation of previously approved Variance in Case No. 2013-0133-A (providing approval for 76 spaces in lieu of otherwise required 189);
- (2) to approve parking in a residential zone per Baltimore County Zoning Regulations (“BCZR”), §409.8.B; and
- (3) to amend previously approved plans in Case No. 2013-0133-A.

A Petition for Variance relief was also filed from:

- (1) BCZR, §1B01.1.B.e(3) and (5), to provide a minimum 10 ft. RTA buffer in lieu of the otherwise required 50 ft;
- (2) BCZR, §1B01.1.B.e.(5), to provide a minimum 10 ft. RTA setback in lieu of the otherwise required 75 ft.; and
- (3) In the alternative, from BCZR, §409.6A, to approve 104 parking spaces in lieu of the otherwise required 189 spaces.

A public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Nicole Keelty and Jake Ruppert appeared on behalf of the Petitioner at the hearing in support of the Petition along with Patrick C. Richardson, Jr., PE, a civil engineer with Richardson Engineering, who prepared and sealed a redlined site plan with one-way circulation (“Redlined Site Plan – One Way Circulation”) (Pet. Ex. 4); a redlined site plan with angled parking (“Redlined Site Plan – Angled Parking”) (Pet. Ex. 5); and a post hearing redlined site plan (“Redlined Site Plan - Post Hearing”). (Pet. Ex. 8). Jennifer R. Busse, Esquire of Rosenberg, Martin, Greenberg, LLP who represented the Petitioner. Several neighboring property owners testified at the hearing.

Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and Department of Environmental Protection and Sustainability (“DEPS”) which agencies did not oppose the requested relief. Development Plans Review and Department of Public Works and Transportation (“DPWT”) provided a combined ZAC comment as follows:

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments:

DPR Comments: Provide highway widening area and perform highway widening along Kahlston Rd.

Provide 5 ft. wide sidewalk along Kahlston Rd.

Provide commercial entrance along Kahlston Rd.

DPWT Comments: The plans show an existing restaurant that is augmenting existing on-site parking. Because what is apparent is only additional parking, if the existing restaurant structure remains in place, DPWT doesn’t have issue with the parking variance falling short of the target requirement.

Landscape: If Special Hearing and Zoning Relief is granted a Landscape Plan is required per the requirements of the Landscape Manual. A Lighting Plan is also required.

The Property is a vacant, 15,000 sf lot which was created as Lot 2 on the Plat of Kahland as recorded in the Land Records of Baltimore County on August 20, 1947 (Plat Book 14, page 30). It was previously improved with a dwelling which was razed by the Petitioner. Because the prior dwelling had been vacant, it was the source of problems for the surrounding community.

The Property is zoned Density Residential (DR3.5). It adjoins the commercially zoned property at 9654 Belair Rd. where a restaurant has been in use since at least 1975. My Neighborhood Map shows that properties fronting on Belair Rd. are primarily zoned commercial. Petitioner seeks to use the residentially zoned Property for business parking, and specifically for the restaurant use at 9654 Belair Rd. As shown on the Redlined Site Plan – Post Hearing, the Property will have 28 perpendicular parking spaces, accessed via a right-turn-only, one-way drive aisle from Kahlston Rd. The access point from Kahlston Rd. will be a commercial entrance which will be posted with traffic and directional signs. When exiting the parking lot at 4128 Kahlston Rd., the one-way drive aisle leads into another parking lot at 4141 Cliffvale Rd. which is currently used as additional parking for 9660 Belair Rd., and is also proposed to be used as parking for the restaurant at 9654 Belair Rd.

This Case is connected to, and filed with, three (3) related zoning cases for adjoining and/or adjacent properties as follows:

- (1) Case No.: 2023-0226-SPHA – 9654 Belair Rd.;
- (2) Case No.: 2023-0225-SPH – 9660 Belair Rd.; and
- (3) Case No.: 2023-0223-SPH – 4141 Cliffvale Rd.

All 4 Cases were heard during the same hearing as the relief sought in each concerns the parking for the restaurant use at 9654 Belair Rd. The Petitioner, 9654 Belair Rd., Inc., owns both properties at 9654 Belair Rd. and at 4128 Kahlston Rd. The properties at 9660 Belair Rd. and 4141 Cliffvale

Rd. are both owned by 9660 Belair Rd., LLC. Both entities are owned by the Ruppert family.¹ All of the Case files have the same exhibits including the Redlined Site Plan – Post Hearing, which corrected errors noted during the hearing. (Pet. Ex. 4A). As a result, given the relationship between all 4 properties and in their mutual requests to provide parking for 9654 Belair Rd, relief for a modified parking plan with a shared parking arrangement as delineated on the Redlined Site Plan – Post Hearing, will be added to each Petition under the general requested relief - ‘And any further relief deemed necessary by the Administrative Law Judge’.

As shown in the street view photographs, Mr. Richardson explained that the Property is elevated above both 9654 Belair Rd. and 4141 Cliffvale Rd. (Pet. Ex. 3). This change in elevation prevents the parking lots at 4128 Kahlston Rd. and 4141 Cliffvale Rd. from becoming one (1) large parking lot, which would have eliminated the need for a drive aisle between the properties, and would also have provided more parking spaces for the restaurant use.

In regard to the DPR/DPWT ZAC comments about road widening and sidewalk installation along Kahlston Rd., Mr. Richardson responded that Kahlston Rd. is a 2-lane, 30 ft. wide right-of-way. Consequently, he opined that there is no need to widened Kahlston Rd. beyond its current width. In further describing Kahlston Rd., he indicated that beyond the Property to the west are residential properties, and widening Kahlston Rd., and/or adding sidewalks beyond the Property entrance, would not only require taking land from the front yard of those homes, but would change the character of the residential street into a commercial road. Mr. Richardson agreed that the entrance into the proposed parking lot here would comply with commercial design standards. Petitioner does agree that a sidewalk would be extended from Belair Rd. up to the commercial

¹ The commercial property at 9656 Belair Rd. is not owned by, controlled or used by the Ruppert family.

entrance for the Property, to the extent one does not already exist.

With regard to the Variance relief for reduced Residential Transition Area (RTA) 75 ft. setback and 50 ft. landscaped buffer, the Redlined Site Plan – Post Hearing depicts that if compliance with the RTA were required, the Property could not be used as a parking lot. Toward that end, Petitioner has proposed landscaped buffers measuring between 10 ft. – 22 ft. as shown on the Redlined Site Plan – Post Hearing. (Pet. Ex. 8). Mr. Richardson acknowledged that a Landscape Plan and a Lighting Plan will need to be filed with and approved by the County Landscape Architect. (Pet. Ex. 6).

Mr. Richardson also opined that an 8 ft. fence between the Property and 4126 Kahlston Rd. would be elevated due to the topography which would make it appear even taller. He further testified that installing a 6 ft. tall fence along Kahlston Rd. at the entrance into the Property could cause sight distance problems for drivers. While the Redlined Site Plan – Post Hearing added both the 8 ft. and 6 ft. tall fences in those locations, he advocated for a 6 ft. tall fence along the Property line with 4126 Kahlston Rd. and a 3.5 ft. tall fence along the Kahlston Rd. entrance. He reasoned that 3.5 ft. fence would be the maximum for a front yard of a residential property.

A stormwater management facility (“SWM”) is proposed between the parking lot on the Property and the parking lot on 9654 Belair Rd. Mr. Richardson explained that it will resemble a sunken landscaped area and all plants within the SWM are selected by the County agencies, in compliance with County regulations and policies.

Testifying at the hearing was Pat Keller, President of Perry Hall Improvement Association (“PHIA”), who reviewed the Redlined Site Plan and provided comments and proposed changes as set forth in a statement dated December 20, 2023. (PHIA, Ex. 1). While PHIA proposed angle parking spaces rather than perpendicular ones, which would reduce the total number of available

spaces by 4, at the hearing Mr. Keller reasoned that angled parking would not be necessary. PHIA was in support of the additional parking provided by the 4 properties in conjunction with one another to support the restaurant use at 9654 Belair Rd. It was PHIA who suggested that the entrance from Kahlston Rd. should be a right-turn-only, and a one-way drive aisle, to reduce traffic problems and limit vehicles from parking along Kahlston Rd., notwithstanding the existing 'No Parking' signs. PHIA was also in support of the reduced landscape RTA buffer, that a Landscape Plan and a Lighting Plan be filed for the Property, and that an 8 ft fence be installed between the Property and 4126 Kahlston Rd. Lastly, PHIA requested that no dumpster for the restaurant at 9654 Belair Rd. be located in the buffer area.

This Case had several neighboring property owners testify in opposition to the proposed use as business parking on a residentially zoned property. Mrs. Ernest Thompson, 4127 Kahlston Rd., who has been living in her home for 7 years, emphasized the problem resulting from valets for the restaurant running back and forth across Belair Rd., as well as the noise from the dumpster which is picked-up at 4:00 am. She was in support of the one-way traffic from Kahlston into the Property.

Mary Martin, co-owner of 4129 Kahlston Rd., requested a 6 ft. high white privacy at the entrance from Kahlston Rd. into the parking lot with landscaping planted in front of the fence. She also requested that the 6 ft. tall privacy fence extend passed the SWM facility, and past the dumpster. Ms. Martin does not want tall grasses planted in the SWM facility as she believes it will attract rodents and mosquitos.

Nancy Kneisler, 4125 Kahlston Rd., is opposed to DPR/DPWT's ZAC comment to widen Kahlston Rd., to add curbs and sidewalks as it will encourage intrusion into her neighborhood. Joseph Evans, 4106 Kahlston Rd., also emphasized the issues with valet parking across Belair Rd.

Lenny Turner, 4007 Kahlston Rd., has lived in his home for 20 years. Mr. Turner believes the access point into 9654 Belair Rd. which was previously from Belair Rd. should be reopened and the entrance from Kahlston Rd. into 9654 Belair Rd. should be closed. Mr. Turner also contends that the owners of 9654 Belair Rd. should add a right-turn lane on Kahlston Rd. for access into the restaurant. Mr. Turner questioned the proposed number of handicap parking spaces. Meg Powers, 3885 Schroeder Ave. requested information on installing a new traffic light on Belair Rd.

Susan Keil, 4126 Kahlston Rd. has resided next to the Property for 16 years and objects to the proposed commercial parking lot as she believes it will decrease her property values. Ms. Keil stated that she had received a notice that a letter that a neighboring property was subject to potential rezoning in the 2024 Comprehensive Zoning Map Process (CZMP) – Issue 5-039. Ms. Keil requested an 8 ft. tall fence between the parking lot and the property which should be landscaped on the outside of the fence. Ms. Keil objects to the dumpster at 9654 Belair Rd. being emptied at 4:00 am. Carol Bullinger, 4124 Kahlston Rd. is also in support of the 8 ft. tall fence with mature trees between the Property and 4126 Kahlston Rd. with mature trees.

SPECIAL HEARING

A hearing to request special zoning relief is proper under BCZR, §500.7 as follows:

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

"A request for special hearing is, in legal effect, a request for a declaratory judgment." *Antwerpen v. Baltimore County*, 163 Md. App. 194, 877 A.2d 1166, 1175 (2005). And, "the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing would be compatible with the community and generally consistent with the spirit and intent of the regulations." *Kiesling v. Long*, Unreported Opinion, No. 1485, Md. App. (Sept. Term 2016).

1. Case No. 2013-0133-A does not apply to 4128 Kahlston Rd.

Petition for Special Hearing seeks to confirm the continuation of previously approved Variance in Case No. 2013-0133-A (providing approval for 76 spaces in lieu of otherwise required 189) and to amend previously approved plans in Case No. 2013-0133-A, was for 9654 Belair Rd., not 4128 Kahlston Rd. As such, the Petitions for Special Hearing will be denied.

2. Approval of commercial parking in a residential zone under the Modified Parking Plan/Shared Parking Arrangement pursuant to BCZR, §409.8.B.

The Property can accommodate 28 parking spaces as shown on the Redlined Site Plan – Post Hearing. (Pet. Ex. 8). In regard to the proposed modified parking plan and shared parking arrangement between the 4 properties as set forth on the Redlined Site Plan – Post Hearing, I find that requirements for parking spaces in BCZR, §409 would create an undue hardship due to the limited space at 9654 Belair Rd. for parking and dumpster areas, I approve the modified plan and shared parking arrangement on the Redlined Site Plan - Post Hearing. Given that the modified parking and shared parking arrangement includes residentially zoned properties at 4128 Kahlston Rd., 4141 Cliffvale Rd., and Lot 4 of 9660 Belair Rd., in compliance BCZR, §409.8.B.1.e.(1)-(4) and §409.B.2.a-g, I further find that the business parking in a residential zone will not negatively impact the character of the surrounding community. I further find that business parking will be on residentially zoned Property which adjoins 9654 Belair Rd. I also find that only passenger vehicles (excluding buses) will use the parking lot at 4128 Kahlston Rd.

All loading and service needed for, or incidental to, the new restaurant will occur at 9654 Belair Rd., and not at 4128 Kahlston Rd. With the filing of the required Lighting Plan as contained in DPR's ZAC comment, lighting shall be regulated as to location, direction, hours of illumination, glare and intensity as approved by the County Landscape Architect. The Redlined Site Plan – Post Hearing adequately shows both the parking arrangement and vehicular access. Petitioner took into consideration the recommendation of the PHIA in regard to right-turn only, one-way access which is shown on the Redlined Site Plan – Post Hearing. (Pet. Ex. 8). The use of one-way direction for vehicles who are entering the parking lot at the 4128 Kahlston Rd. and driving through to 4141 Cliffvale Rd. parking lot, and/or the 9660 Belair Rd. parking lot, will provide an efficient and safe flow of traffic. The Shared Parking Tabulation Chart, on the Redlined Site Plan – Post Hearing, provides an adequate detailed method and area of operation, and permitted hours of use. During the ownership of the properties, the legal owners are responsible for the maintenance of the parking areas as well for the landscaping and lighting, as required by the Baltimore County Code, BCZR, and/or applicable policies.

Based upon the information provided by Susan Keil, 4126 Kahlston Rd. as to a notice which she received about potential rezoning of the neighboring properties, research as to CZMP Issue 5-039 indicates that it was raised by the County Council in regard to both 9654 Belair Rd. and 4128 Kahlston Rd., but a final decision has not yet been made.

VARIANCE

1. RTA Variance of Parking Lot Setback and Landscape Buffer.

The Property is subject to BCZR, §1B01.1.B.e requiring a 75 ft. setback for parking, and a 50 ft. landscaped buffer area. Petitioner here seeks Variance relief pursuant to BCZR, §1B01.1.B.1.c which reads as follows:

c. Variance of RTA.

(1) Notwithstanding the provisions of Section 307, the hearing officer, upon the recommendation of the Departments of Public Works and Transportation, Planning, Environmental Protection and Sustainability, Permits, Approvals and Inspections, Recreation and Parks, or Economic and Workforce Development, may determine the amount of RTA in cases where a single tract is more than two acres, is vacant, or contains no more than one single-family detached, semidetached or duplex dwelling.

The Property here is vacant. In its ZAC comment, the DOP indicated that it had no objection to the reduced RTA buffer and setback. Additionally, DOP's recommendation that the landscaping should be provided in front of the privacy fence to screen the commercial parking lot from the residential community is consistent with the requests from several Protestants. As such, I find that the minimum 10 ft. setback and 10 ft. landscaped buffer as depicted on the Redlined Site Plan – Post Hearing will provide adequate landscape screening and buffer between the proposed commercial parking lot and residential properties along Kahlston Rd., and that it also meets the intent and purpose of the RTA setback and buffer.

With regard to fence height, based on the street view photographs, I am concerned that an 8 ft. tall fence between the property and 4126 Kahlston Rd. will obstruct sight lines for drivers pulling out of their driveways and/or traveling up Kahlston Rd. Based on Mr. Richardson's testimony, the topography of the Property would elevate an 8 ft. fence even taller and would create a safety issue for drivers. Aesthetically, I also find that an 8 ft. tall fence will detract from the residential character of this attractive neighborhood. Similarly, while Ms. Martin (4129 Kahlston Rd.) requested a 6 ft. tall fence facing her property across the street, I find that a 6 ft. tall fence in that location will obstruct the view of drivers pulling out of their driveways on that side of Kahlston Rd., particularly, Ms. Keil. Given the elevation of 4128 Kahlston Rd., in my view, a 3.5 ft. tall fence along the Kahlston Rd. property line will already be elevated, and will have landscaped

buffer in front of it, such that it will serve the purpose of shielding the view into the parking lot but also be attractive to the surrounding residential community. I do not find that a 6 ft. fence is necessary along Kahlston Rd. property line to shield headlights from shining into the home at 4129 Kahlston Rd. because vehicles are making a right turn into the Property's parking lot and headed toward 4141 Cliffvale Rd. parking lot. This one-way only direction prevents headlights from shining into the home at 4129 Kahlston Rd.

2. Petition for Variance from BCZR, §409.6A, to approve 104 parking spaces in lieu of the otherwise required 189 spaces.

As an alternative to Petition for Special Hearing to approve commercial parking in a residential zone, Petitioner seeks Variance approval for 104 parking spaces in lieu of the otherwise required 189 spaces set forth in BCZR, §409.6A. First, the Property here has 28 parking spaces. Second, the total number of available parking spaces under the modified parking plan/shared parking arrangement for the 4 properties combined is 102, not 104. Third, given that both the Petition for Special Hearing to approve business parking in a residential zone, and for a modified parking plan/shared parking arrangement will be granted herein, the Petition for Variance is not necessary and will be dismissed as moot.

THEREFORE, IT IS ORDERED, this 25th day of **January 2024**, by the Administrative Law Judge for Baltimore County that the Petition for Special Hearing pursuant to BCZR, §500.7 to confirm the continuation of previously approved Variance in Case No. 2013-0133-A (providing approval for 76 spaces in lieu of otherwise required 189), be, and it is hereby **DENIED**; and

IT IS FURTHER ORDERED, that the Petition for Special Hearing pursuant to BCZR, §500.7 to approve business parking in a residential zone per BCZR, §409.8.B, be, and it is hereby **GRANTED**; and

IT IS FURTHER ORDERED, that the Petition for Special Hearing pursuant to BCZR, §500.7 to amend the previously approved plans in Case No. 2013-0133-A, is hereby **DENIED**; and

IT IS FURTHER ORDERED, that the Petition for Special Hearing pursuant to BCZR, §500.7 to approve a modified parking plan and shared parking arrangement collectively for the properties located at 9654 Belair Rd, 9660 Belair Rd., 4128 Kahlston Rd. and 4141 Cliffvale Rd. be, and it is hereby, **GRANTED**, in accordance with the Redlined Site Plan – Post Hearing (Pet. Ex. 8); and

IT IS FURTHER ORDERED, that the Petition for Variance from BCZR, §1B01.1.B.e(3) and (5), to provide a minimum 10 ft RTA buffer in lieu of the otherwise required 50 ft, and from BCZR, §1B01.1.B.e(5), to provide a minimum 10 ft RTA setback in lieu of the otherwise required 75 ft, be, and they are each hereby, **GRANTED**; and

IT IS FURTHER ORDERED, that the Petition for Variance from BCZR, §409.6A, to approve 104 parking spaces in lieu of the otherwise required 189 spaces be, and it is hereby, **DISMISSED AS MOOT**.

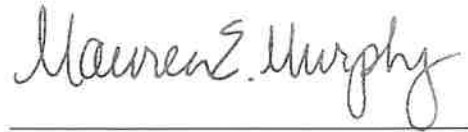
The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. The Redlined Site Plan – Post Hearing (Pet. Ex. 8) is attached hereto and incorporated herein in its entirety.
3. Regardless of whether permits of any kind will be applied for, given the modified parking plan and shared parking arrangement between the properties located at 9654 Belair Rd., 4128 Kahlston Rd., 4141 Cliffvale Rd., and/or 9660 Belair Rd., prior to use of the Property for business parking, Petitioner shall comply with the DOP comments, a copy of which is attached hereto and incorporated herein,

including the installation and construction of all fencing; the filing of Landscape Plan and Lighting Plan; and the planting of all trees, bushes and/or plantings required under the Landscape Plan and Lighting Plan approved by the County Landscape Architect, with an emphasis of plantings in front of the privacy fence(s). All design, screening and landscaping shall be provided in accordance with the Landscape Manual and all other manuals adopted pursuant to BCC, §32-4-404.

4. Petitioner must comply with the DPR/DPWT ZAC comment, a copy of which are attached hereto and made a part hereof, with regard to all comments with the exception of providing and performing highway widening along Kahlston Rd. which will not be required. Additionally, 5 ft. sidewalks shall only be required up to the parking lot entrance at 4128 Kahlston Rd. and only to the extent such sidewalks do not already exist.
5. Petitioner shall install the SWM facility as noted on the Redlined Site Plan Post Hearing in accordance with BCC, and all applicable County rules, regulations and/or policies including all vegetation required to be planted, and/or selected to be planted within the SWM facility, by the respective County agencies.
6. Prior to use of the Property for business parking, Petitioner shall install a 6 ft. tall (72 inches) white, privacy fence abutting the paved parking lot on the Property and outside of the 22 ft. landscape buffer area, to allow for landscaping between the fence and the property line with 4126 Kahlston Rd. Petitioner shall also a 3.5 ft. (42 inch) white privacy fence abutting the paved parking lot on the Property on both sides of the commercial entrance into the parking lot along Kahlston Rd. and outside of the 10 ft. landscape buffer area, to allow for landscaping between the fence and the right of way line of Kahlston Rd. The 3.5 ft. (42 inch) fence along Kahlston Rd. shall end at the 4128 Kahlston Rd. property line and shall not extend into the dumpster area at 9654 Belair Rd. as the dumpster will be enclosed with a gate. (See Case No.: 2023-0226-SPHA). All landscaping shall be directed by the County Landscape Architect in accordance with the County Landscape Manual.
7. Petitioner shall provide a durable and dustless parking surface along with striped parking spaces on the Property.
8. Except as otherwise specifically excluded and/or indicated in the specific Order issued for each property, the Opinions and Orders issued in Case Nos.: 2023-0223-SPH, 2023-0225-SPH, and 2023-0226-SPHA, are incorporated herein in their entirety and any all relief and/or conditions imposed on those properties, to the extent such relief and/or conditions relates/pertains the use of the Property at 9654 Belair Rd., shall apply here.

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

A handwritten signature in cursive script, reading "Maureen E. Murphy". The signature is written in dark ink and is positioned above a horizontal line.

MAUREEN E. MURPHY
Chief Administrative Law Judge
for Baltimore County

MEM:dlm

IN RE: PETITIONS FOR SPECIAL HEARING) * BEFORE THE
 AND VARIANCE – SW/S Cliffvale Road,
 229.08' N of Belair Road * DEPUTY ZONING COMMISSIONER
 (4141 Cliffvale Road)
 11 3rd Election District * OF BALTIMORE COUNTY
 5 3rd Councilmanic District * Case No. 99-114-SPHA
 Barrueto & Marana Partnership
 Petitioners *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the owners of the subject property, Barrueto and Marana Partnership, by Zenaida C. Marana, Partner, through their attorney, Howard L. Alderman, Jr., Esquire. The Petitioners seek approval, pursuant to Section 409.8.B of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit pre-existing business parking on 0.040 acres of land, more or less, which is split-zoned D.R.3.5 and B.L.-A.S. In addition, the Petitioners request variance relief from Sections 1B01.1.B.1.c.(1) and (2) of the B.C.Z.R. as follows: 1) From Section 1B01.1.B.1.e(5) and C.M.D.P. Section 504.II.A.15 to permit a landscape buffer of not less than 10 feet in lieu of the required 50 feet; and, 2) from Section 1B01.1.B.1.e(5) and C.M.D.P. Section 504.II.A.16 to permit a Residential Transition Area (RTA) buffer of not less than 10 feet in lieu of the required 75 feet, for the existing parking lot. 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 Zenaida Marana and Rosa Burreto, members of the Burreto and Marana Partnership, owners of the subject property, David Martin, Professional Engineer with George W. Stephens, Jr. & Associates, the consulting firm which prepared the site plan for this property, and Howard L. Alderman, Jr., Esquire, attorney for

ORDER RECEIVED FOR FILING

Date

By

2023-0224-SPHA

the Petitioners. Appearing as an interested citizen was Dennis Eckard, a nearby resident of the area, and representative of the Perry Hall Improvement Association.

It should be noted that at the onset of the hearing, the Petitioners modified the design of the parking area somewhat and are now able to provide a 20-foot wide landscaping strip to the rear of the property in lieu of the 10-foot wide buffer originally requested, thus, a landscape buffer of 20 feet in lieu of the required 50 feet is required. The 10-foot RTA buffer requested for the side of the property shall remain a part of the requested variance relief.

Testimony and evidence offered revealed that the subject property consists of a gross area of 0.40 acres, more or less, split zoned D.R.3.5 and B.L.-A.S., and is located to the rear of an existing medical office building at 9660 Belair Road. The subject property actually has a street address of 414 Cliffvale Road, but serves as a parking area for the medical office building that fronts on Belair Road. Testimony indicated that the Petitioners acquired the subject property some time ago and have been utilizing same for parking; however, the lot was not paved and parking was done in a haphazard fashion. The Petitioners are desirous of paving the subject lot and providing a more organized method of parking for patrons and tenants of their office building. The Petitioners have submitted as Petitioner's Exhibits 1 through 4, various site plans of the property showing the proposed parking layout and design, as well as landscaping. Further testimony indicated that the Petitioners have met with representatives of the Office of Planning who have assisted them in developing an appropriate design for the parking area.

As noted above, Mr. Dennis Eckard, a representative of the Perry Hall Improvement Association, as well as a resident of the area, appeared as an interested party. Mr. Eckard indicated that he supports the Petitioners' request and believes that the proposed improvements will benefit the surrounding community and provide a better parking situation than that which currently exists. Mr. Eckard supports the Petitioners' request so long as the parking lot improvements are not done to accommodate a future expansion of the medical office building on Belair Road.

In response to Mr. Eckard's concerns, the Petitioners testified that no expansion of the existing office building is planned and that the proposed improvements are being made to accommodate existing patrons and tenants of the building.

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

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean 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;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient 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).

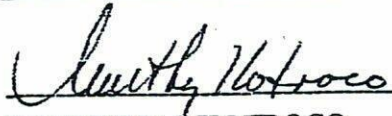
After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the subject property and that strict compliance with the zoning regulations will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 30th day of November, 1998 that the Petition for Special Hearing to approve pre-existing business parking on 0.040 acres of land, more or less, which is split-zoned D.R.3.5 and B.L.-A.S., 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 Residential Transition Area requirements set forth in Sections 1B01.1.B.1.c.(1) and (2) of the B.C.Z.R. as follows: 1) From Section 1B01.1.B.1.e(5) and C.M.D.P. Section 504.II.A.15 to permit a buffer of not less than 20 feet (as modified herein) in lieu of the required 50 feet; and, 2) from Section 1B01.1.B.1.e(5) and C.M.D.P. Section 504.II.A.16 to permit a buffer of not less than 10 feet in lieu of the required 75 feet, for the existing parking lot, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) Prior to the issuance of any use permit, the Petitioners shall submit a landscape plan for review and approval by the Office of Planning.
- 3) There shall be no expansion of the existing medical office building a 9660 Belair Road without a public hearing to determine the appropriateness of such expansion and its impact on the subject parking lot
- 4) When applying for a building permit, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order .


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 11/30/98
By [Signature]
TMK:bjs



PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections
To the Office of Administrative Hearings for Baltimore County for the property located at:

Address 4128 Kahlston Rd. Currently Zoned DR 3.5
Deed Reference 48151 / 160 10 Digit Tax Account # 1119051400
Owner(s) Printed Name(s) 9654 Belair Road, Inc.

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST)

The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an:

1. X a **Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

Please see attached.

2. a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

3. X a **Variance** from Section(s)

Please see attached.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

TO BE PRESENTED AT HEARING

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

I/ we agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Legal Owner(s) Affirmation: I / we do so 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 / these Petition(s).

Contract Purchaser/Lessee:

n/a
Name - Type or Print
Signature
Mailing Address City State
/ /
Zip Code Telephone # Email Address

Attorney for Petitioner:

Jennifer R. Busse, Esq. Rosenberg, Martin, Greenberg, LLP
Name - Type or Print

Signature
25 S. Charles Street, 21st Floor, Baltimore, MD
Mailing Address City State
21201 / 410-727-6600 jbusse@rosenbergmartin.com
Zip Code Telephone # Email Address

Legal Owners (Petitioners):

9654 Belair Road, Inc.
Name #1 - Type or Print Name #2 - Type or Print
Nicole Keelty
Signature #1 Signature #2
9654-A Belair Road, Baltimore, MD
Mailing Address City State
21236 / 410-746-2989 / nicoleruppertkeelty@gmail.com
Zip Code Telephone #'s (Cell and Home) Email Address

Representative to be contacted:

Jennifer R. Busse, Esq. Rosenberg, Martin, Greenberg, LLP
Name - Type or Print

Signature
25 S. Charles Street, 21st Floor, Baltimore, MD
Mailing Address City State
21201 / 410-727-6600 jbusse@rosenbergmartin.com
Zip Code Telephone # Email Address

Case Number 2023-0224-SPHA Filing Date 10 / 25 / 2023 Do Not Schedule Dates Reviewer CP

Attachment to Zoning Petition

9654 Belair Road & 4128 Kahlston Road

Property Info =

4128 Kahlston Street:

Tax Acct No.: 1119051400 – Parcel 335, LOT 2

Petition for Variance from BCZR §1B01.1.B.e.(3) and (5) to provide a minimum 10' RTA buffer in lieu of the otherwise required 50'.

Petition for Variance from BCZR §1B01.1.B.e.(5) to provide a minimum 10' RTA setback in lieu of the otherwise required 75'.

Petition for Special Hearing to confirm the continuation of previously approved variance in Case 2013-0133-A (providing approval for 76 spaces in lieu of otherwise required 189).

In the alternative, Petition for Variance from BCZR §409.6A to approve 104 parking spaces in lieu of the otherwise required 189 spaces.

Petition for Special Hearing to approve parking in a residential zone per BCZR §409.8.B.

Petition for Special Hearing to amend previously approved plans in Case No. 2013-0133-A.

And any further relief deemed necessary by the Administrative Law Judge.

2023-0224-SPHA



ZONING DESCRIPTION FOR

**4128 KAHLSTON ROAD
11TH ELECTION DISTRICT
5TH COUNCILMANIC District
BALTIMORE COUNTY, MARYLAND**

BEGINNING FOR THE SAME at a point on the west side right-of-way of Belair Road (variable in width) at a distance of 182 feet south of the centerline intersection of Belair Road and Cliffvale Road (40 feet in width), thence binding on Belair Road; (1) South 41 degrees 43 minutes 45 seconds West 122.67 feet, (2) South 86 degrees 38 minutes 03 seconds West 26.65 feet to a point on the north side right-of-way of Kahlston Road (55 feet in width), thence binding on Kahlston Road the following courses and distances; (3) North 48 degrees 28 minutes 04 seconds West 35.37 feet, (4) South 40 degrees 57 minutes 55 seconds West 8.36 feet, (5) North 48 degrees 18 minutes 30 seconds West 112.99 feet, (6) North 48 degrees 18 minutes 30 seconds West 100.00 feet thence leaving Kahlston Road for the following courses and distances; (7) North 41 degrees 41 minutes 30 seconds East 150.00 feet, (8) South 48 degrees 18 minutes 30 seconds East 100.00, (9) South 48 degrees 18 minutes 30 seconds East 167.17 feet to the point of beginning;

Containing a net area of 39,434 square feet, or 0.91 acres of land, more or less.

PROFESSIONAL CERTIFICATION:
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE
PREPARED OR APPROVED BY ME, AND THAT I AM A
DULY LICENSED PROFESSIONAL ENGINEER UNDER
THE LAWS OF THE STATE OF MARYLAND, LICENSE
NUMBER 16597, EXPIRATION DATE: 08-15-2025



2023-0224-SPHA

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS

ZONING REVIEW OFFICE

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/ neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.*

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

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID

For Newspaper Advertising:

Case Number: 2023-0224-SP#A

Property Address: 4128 Kahlston Rd

Legal Owners (Petitioners): 9654 Belair Road, Inc.

Contract Purchaser/Lessee: n/a

PLEASE FORWARD ADVERTISING BILL TO:

Name: Company/Firm (if applicable): Jennifer Busse, Esq. / RMG

Address: 25 S. Charles St.
21 st Floor
Balto. MD 21201

Telephone Number: 410.727.8647

*Failure to advertise and/or post a sign on the property within the designated time will result in the Hearing request being delayed. The delayed Hearing Case will be cycled to the end of pending case files and rescheduled in the order that it is received. Also, a \$250.00 rescheduling fee may be required after two failed advertisings and/or postings.

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals
MJD

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For November 13, 2023
Item No. 2023-0224-SPHA

DATE: November 13, 2023

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

DPR Comments: Provide highway widening area and perform highway widening along Kahlston rd.

Provide 5' wide sidewalk along Kahlston rd.

Provide commercial entrance along Kahlston rd.

DPW&T Comments: The plans show an existing restaurant that is augmenting existing on-site parking. Because what is apparent is only additional parking, if the existing restaurant structure remains in place, DPWT doesn't have issue with the parking variance falling short of the target requirement.

Landscape: If Special Hearing and Zoning Relief is granted a Landscape Plan is required per the requirements of the Landscape Manual. A Lighting Plan is also required.

VKD: JK
cc: file

BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

TO: C. Pete Gutwald
Director, Department of Permits, Approvals and Inspections

DATE: 11/9/2023

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2023-224-SPHA

INFORMATION:

Property Address: 9654 Belair Road and 4128 Kahlston Road

Petitioner: 9654 Belair Road, Inc. c/o Nicole Keely

Zoning: BL AS, DR 3.5

Requested Action: Special Hearing, Variance

The Department of Planning has reviewed the petition for the following:

Variance -

1. From Baltimore County Zoning Regulations (BCZR) Section 1B01.1.B.e.(3) and (5) to provide a minimum 10' RTA buffer in lieu of the otherwise required 50';
2. From BCZR Section 1B01.1.B.e.(5) to provide a minimum 10' RTA setback in lieu of the otherwise required 75';

Special Hearing -

3. To confirm the continuation of previously approved Variance in Case 2013-133-A, providing approval for 76 parking spaces in lieu of the otherwise required 189;

In the alternative, petition for Variance -

4. From BCZR Section 409.6A to approve 104 parking spaces in lieu of the otherwise required 189 spaces;

Special Hearing -

5. To approve parking in the residential zone per BCZR Section 409.8.B;
6. To amend the previously approved plans in Case 2013-133-A; and
7. For any further relief deemed necessary by the Administrative Law Judge.

9654 Belair Road is an approximately 24,204 square foot parcel on Belair Road in the Nottingham area. It is improved with a two-story restaurant building, a two-story office building, and a surface parking lot. The site is zoned BL AS. The site was previously the subject of Zoning Case 2013-133-A, which, in part, was granted to permit 76 spaces in lieu of the required 189.

4128 Kahlston Road is an approximately 15,000 square foot parcel off Belair Road in the Nottingham area. It is improved with a one-story single family detached dwelling, which appeared vacant on Google Streetview imagery from July 2022, and an asphalt driveway. The site is zoned DR 3.5.

Zoning Case 2023-223-SPH for 4141 Cliffvale Road; Zoning Case 2023-224-SPHA for 9654 Belair Road and 4128 Kahlston Road; Zoning Case 2023-225-SPH for 9660 Belair Road; and Zoning Case 2023-226-SPHA for 9654 Belair Road are all related to one another and utilize the same site plan. Per the site plan, the Petitioner wishes to remove the existing building at 4128 Kahlston Road, add a parking lot for shared use at 4128 Kahlston Road, add a stormwater management facility at 4128 Kahlston Road, and connect the existing parking lot at 4141 Cliffvale Road to the proposed parking lot at 4128 Kahlston Road. No new structures or building construction are proposed at this time.

The site is within the boundary of the Perry Hall Community Plan, adopted February 22nd, 2011. The plan provides a history of the Perry Hall area, as well as recommendations on how to improve the area. The plan encourages parking consolidation and eliminating excessive parking (page 10).

The Department of Planning met with the representative for the petition virtually on November 7th, 2023. During the meeting, the representative explained that the purpose of the relief in all four Zoning Cases currently at hand (2023-223-SPH; 2023-224-SPHA; 2023-225-SPH and 2023-226-SPHA) is to provide additional parking for the restaurant at 9654 Belair Road as the existing is not sufficient. It was confirmed that no new structures are proposed.

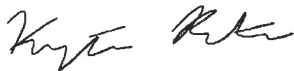
The Department of Planning understands the Petitioners need to provide adequate parking for the restaurant and office uses on the site. As such, the Department has no objections to the Variance relief relevant to the RTA buffer and setback requirements and no objections to the Special Hearing request to allow parking in the residential zone, subject to the following conditions:

- Privacy fencing similar to that dividing 4139 Cliffvale Road and 4141 Cliffvale Road shall be proposed dividing 4126 and 4128 Kahlston Road; and
- Landscaping shall be provided in front of the privacy fencing/along the property line dividing 4126 and 4128 Kahlston Road in order to screen the residential dwelling from the commercial area.

The Department of Planning has no objections regarding the Special Hearing or Variance for the number of proposed parking spaces. The proposed parking is increasing from 76 spaces to 189 spaces. This will allow the restaurant at 9654 Belair Road to be more adequately parked, however, it is still consistent with the Perry Hall Community Plan's recommendation against excessive parking.

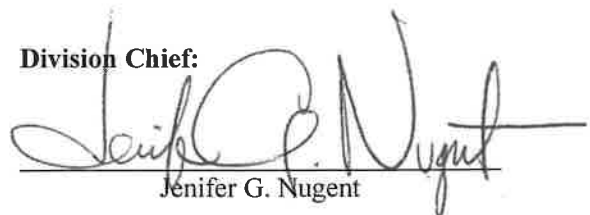
For further information concerning the matters stated herein, please contact Taylor Bensley at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



Jenifer G. Nugent

SL/JGN/KP

c: Jennifer Busse, Esq. – Rosenberg, Martin, Greenberg LLP
Ainsley Jacobs, Community Planner
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County

CERTIFICATE OF POSTING

CASE NO. 2023-0224-SPHA

PETITIONER/DEVELOPER

Rosenberg Martin Greenberg

Jennifer Busse

DATE OF HEARING/CLOSING

January 2, 2024

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING ROOM 111
111 WEST CHESAPEAKE AVENUE
ATTENTION:

LADIES AND GENTLEMEN:

THIS LETTER IS TO CERTIFY UNDER PENALTIES OF PERJURY THAT THE
NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON
THE PROPERTY LOCATED AT

4128 Kahlston Rd

Sign 1

THE SIGN(S) POSTED ON December 10, 2023

(MONTH, DAY, YEAR)

SINCERLEY,

MARTIN OGLE

MARTIN OGLE

9912 MAIDBROOK RD.

PARKVILLE, MD 21234

443-629-3411



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: C. Pete Gutwald
Director, Department of Permits, Approvals and Inspections

DATE: 11/9/2023

FROM: Steve Lafferty
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 2023-224-SPHA

INFORMATION:

Property Address: 9654 Belair Road and 4128 Kahlston Road

Petitioner: 9654 Belair Road, Inc. c/o Nicole Keelty

Zoning: BL AS, DR 3.5

Requested Action: Special Hearing, Variance

The Department of Planning has reviewed the petition for the following:

Variance -

1. From Baltimore County Zoning Regulations (BCZR) Section 1B01.1.B.e.(3) and (5) to provide a minimum 10' RTA buffer in lieu of the otherwise required 50';
2. From BCZR Section 1B01.1.B.e.(5) to provide a minimum 10' RTA setback in lieu of the otherwise required 75';

Special Hearing -

3. To confirm the continuation of previously approved Variance in Case 2013-133-A, providing approval for 76 parking spaces in lieu of the otherwise required 189;

In the alternative, petition for Variance -

4. From BCZR Section 409.6A to approve 104 parking spaces in lieu of the otherwise required 189 spaces;

Special Hearing -

5. To approve parking in the residential zone per BCZR Section 409.8.B;
6. To amend the previously approved plans in Case 2013-133-A; and
7. For any further relief deemed necessary by the Administrative Law Judge.

9654 Belair Road is an approximately 24,204 square foot parcel on Belair Road in the Nottingham area. It is improved with a two-story restaurant building, a two-story office building, and a surface parking lot. The site is zoned BL AS. The site was previously the subject of Zoning Case 2013-133-A, which, in part, was granted to permit 76 spaces in lieu of the required 189.

4128 Kahlston Road is an approximately 15,000 square foot parcel off Belair Road in the Nottingham area. It is improved with a one-story single family detached dwelling, which appeared vacant on Google Streetview imagery from July 2022, and an asphalt driveway. The site is zoned DR 3.5.

Zoning Case 2023-223-SPH for 4141 Cliffvale Road; Zoning Case 2023-224-SPHA for 9654 Belair Road and 4128 Kahlston Road; Zoning Case 2023-225-SPH for 9660 Belair Road; and Zoning Case 2023-226-SPHA for 9654 Belair Road are all related to one another and utilize the same site plan. Per the site plan, the Petitioner wishes to remove the existing building at 4128 Kahlston Road, add a parking lot for shared use at 4128 Kahlston Road, add a stormwater management facility at 4128 Kahlston Road, and connect the existing parking lot at 4141 Cliffvale Road to the proposed parking lot at 4128 Kahlston Road. No new structures or building construction are proposed at this time.

The site is within the boundary of the Perry Hall Community Plan, adopted February 22nd, 2011. The plan provides a history of the Perry Hall area, as well as recommendations on how to improve the area. The plan encourages parking consolidation and eliminating excessive parking (page 10).

The Department of Planning met with the representative for the petition virtually on November 7th, 2023. During the meeting, the representative explained that the purpose of the relief in all four Zoning Cases currently at hand (2023-223-SPH; 2023-224-SPHA; 2023-225-SPH and 2023-226-SPHA) is to provide additional parking for the restaurant at 9654 Belair Road as the existing is not sufficient. It was confirmed that no new structures are proposed.

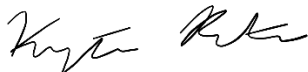
The Department of Planning understands the Petitioners need to provide adequate parking for the restaurant and office uses on the site. As such, the Department has no objections to the Variance relief relevant to the RTA buffer and setback requirements and no objections to the Special Hearing request to allow parking in the residential zone, subject to the following conditions:

- Privacy fencing similar to that dividing 4139 Cliffvale Road and 4141 Cliffvale Road shall be proposed dividing 4126 and 4128 Kahlston Road; and
- Landscaping shall be provided in front of the privacy fencing/along the property line dividing 4126 and 4128 Kahlston Road in order to screen the residential dwelling from the commercial area.

The Department of Planning has no objections regarding the Special Hearing or Variance for the number of proposed parking spaces. The proposed parking is increasing from 76 spaces to 189 spaces. This will allow the restaurant at 9654 Belair Road to be more adequately parked, however, it is still consistent with the Perry Hall Community Plan's recommendation against excessive parking.

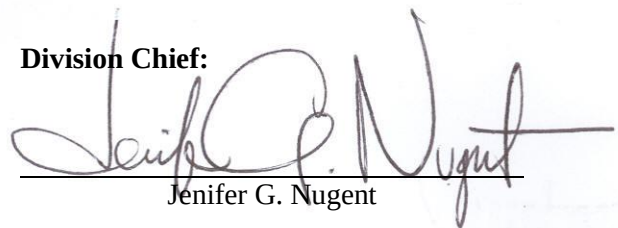
For further information concerning the matters stated herein, please contact Taylor Bensley at 410-887-3482.

Prepared by:



Krystle Patchak

Division Chief:



Jenifer G. Nugent

SL/JGN/KP

c: Jennifer Busse, Esq. – Rosenberg, Martin, Greenberg LLP
Ainsley Jacobs, Community Planner
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Paul M. Mayhew; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: November 13, 2023

SUBJECT: DEPS Comment for Zoning Item # 2023-0224-SPHA
Address: 4128 KAHLSTON RD
Legal Owner: 9654 Belair Road, Inc.

Zoning Advisory Committee Meeting of November 13, 2023.

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Additional Comments:

Reviewer: Earl D. Wrenn

Real Property Data Search ()
Search Result for BALTIMORE COUNTY

[View Map](#)
[View GroundRent Redemption](#)
[View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: District - 11 Account Number - 1119051400

Owner Information

Owner Name: 9654 BELAIR ROAD INC Use: RESIDENTIAL
Principal Residence: NO

Mailing Address: 1314 RICHARDSON ST
BALTIMORE MD 21236- Deed Reference: /48151/ 00160

Location & Structure Information

Premises Address: 4128 KAHLSTON ST
NOTTINGHAM 21236- Legal Description: KAHLAND

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
0063 0021 0335 11050044.04 0000 2 2021 Plat Ref: 0014/ 0030

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
1940 1,238 SF 15,000 SF 04

Stories Basement Type Exterior Quality Full/Half Bath Garage Last Notice of Major Improvements
1 NO STANDARD UNIT FRAME/3 1 full

Value Information

	Base Value	Value	Phase-in Assessments	
		As of	As of	As of
		01/01/2021	07/01/2022	07/01/2023
Land:	101,500	101,500		
Improvements	79,000	83,200		
Total:	180,500	184,700	183,300	184,700
Preferential Land:	0	0		

Transfer Information

Seller: 5005 ERDMAN AVENUE LIMITED PARTNERSHIP Date: 06/21/2023 Price: \$80,300
Type: NON-ARMS LENGTH OTHER Deed1: /48151/ 00160 Deed2:
Seller: Date: 08/22/2012 Price: \$80,300
Type: NON-ARMS LENGTH OTHER Deed1: /32452/ 00362 Deed2:
Seller: Date: Price:
Type: Deed1: Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2022	07/01/2023
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00 0.00	0.00 0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

2023-0224-SPHA

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. 226667

Date: 10-25-2023

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	000		6150				1000.00

Total: 1000.00

Rec

From:

For:

9654 Belair Rd

2023-0226-SPHA BLAS; DR 3.5

4128 Kahlston Rd

2023-0224-SPHA DR 3.5

* 4141 Clifton Rd

2023-0223-SPHA DR 3.5

9660 Belair Rd

2023-0225-SPH BLAS

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

CASHIER'S
VALIDATION

CF 23-0614



Rosenberg
Martin
Greenberg^{LLP}

ATTORNEY OPERATING ACCOUNT
25 SOUTH CHARLES STREET, 21ST FLOOR
BALTIMORE, MARYLAND 21201
(410) 727-6600

HOWARD BANK
ELLCOTT CITY, MD 21043

65-343/550

88949

PAY: One Thousand Dollars and 00/100

NUMBER

DATE

AMOUNT

88949

6/27/2023

1,000.00

TO THE
ORDER
OF

Baltimore County



Shield

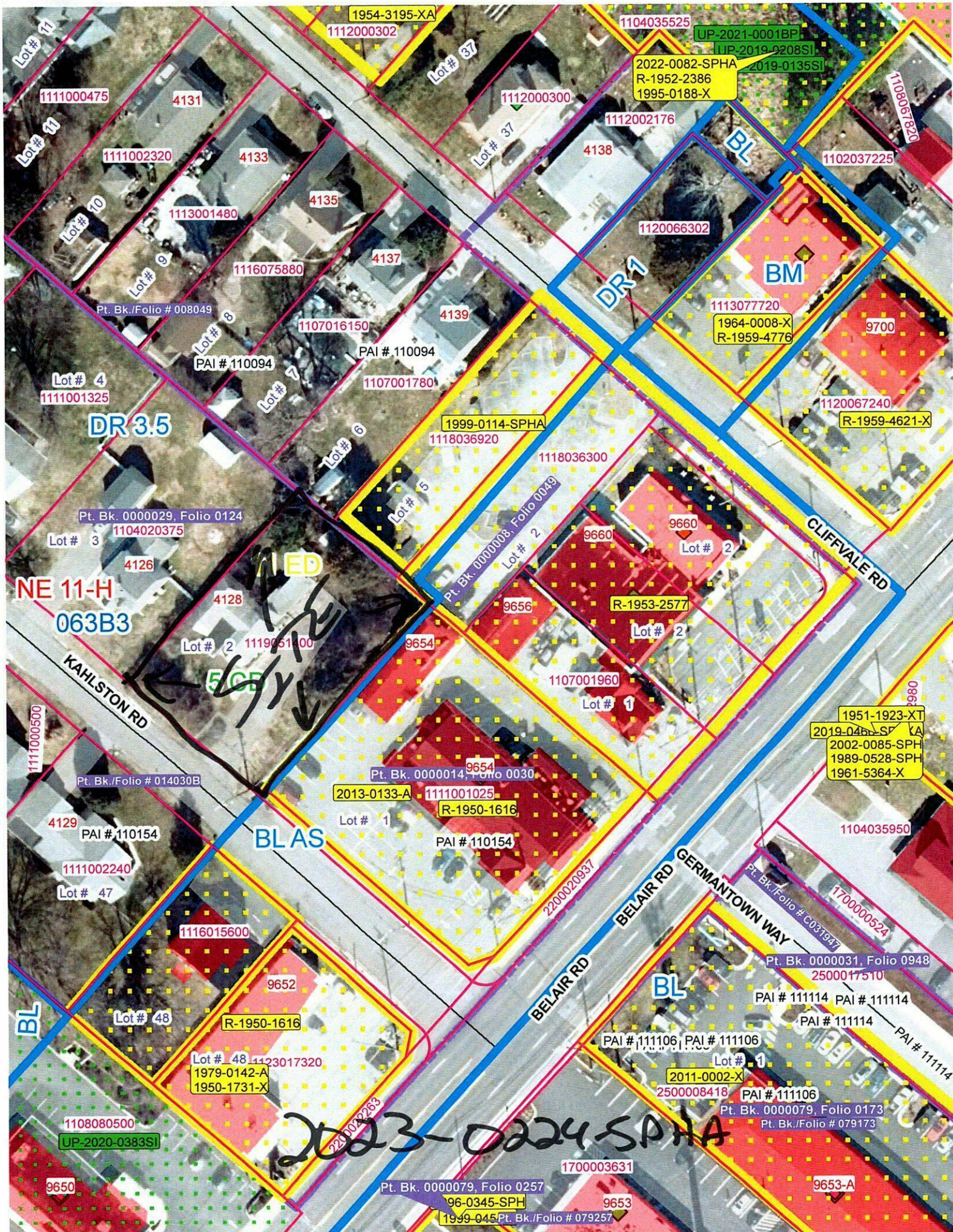
VOID AFTER 90 DAYS

[Signature]

TRUE WATERMARK PAPER - HOLD TO LIGHT TO VIEW

HEAT SENSITIVE RED IMAGE DISAPPEARS WITH HEAT

088949 055003434 6015210



12M-12AM	12AM-6AM		
0.5	5%	0.5	5%
184.9	10%	18.5	10%
1.1	5%	1.1	5%
186.5		20.1	

PROFESSIONAL CERTIFICATION:
 I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR
 APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSION
 ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENS
 NUMBER 16597, EXPIRATION DATE: 08-15-2023