

R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board has reviewed ROSP SE-1642/03 and VSE-1642/01 requesting a minor revision to the approved Special Exception site plan and variances from certain design and setback requirements in accordance with Subtitle 27 of the Prince George's County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on December 20, 2001, the Prince George's County Planning Board finds:

1. Location and Field Inspection: The site is located in the southwest quadrant of Baltimore Avenue (US 1) and Sellman Road in Beltsville. The site comprises approximately 21,514 square feet and is improved with a Shell gas station constructed in 1968. A one-story masonry building houses three service bays, an office, and a sales area. The site has approximately 155 feet of frontage on Baltimore Avenue and approximately 140 feet of frontage on Sellman Road. It is accessed from both streets.
2. History: The District Council approved a special exception for a gas station for this site in 1968 pursuant to S.E. 1642. In 1989 the Planning Board, per Resolution PGCPB No. 89-58, approved a minor site plan revision (SE-1642/1) to allow for the relocation of the pump islands and the addition of a new canopy. Also in 1989, the Board of Appeals, per Appeal No. 9884, granted a number of variances: from Section 27-462 to allow the canopy to be set back eight feet from the street line in lieu of the required 10 feet; from Section 27-358(a)(8) to allow gasoline pumps to be set back 18 feet from the street line in lieu of the required 25 feet; from Section 27-358(a)(5) to allow driveway entrances less than the required 30 feet in width; and from Section 27-358(a)(5) to allow the southernmost driveway on Baltimore Avenue to end at a point six feet from the south property line and the westernmost driveway on Sellman Road to end at a point eight feet from the western property line in lieu of the required 12 feet. In 1997, the District Council approved a special exception for a car wash on the site per S.E. 4192. The car wash was not constructed, however. In conjunction with SE-4192, a second minor revision (ROSP SE-1642/2) to SE-1642 was approved by the Planning Board, per PGCPB No. 96-297, in order to add a storage room for the gas station operation. This storage room, however, was never constructed. Alternative Compliance AC-95062, for the Commercial Landscape Strip and Parking Lot Landscape Strip requirements of the *Landscape Manual*, was also granted in conjunction with SE-4192.
3. The applicant wishes to further renovate the existing gas station by razing the existing three-bay service station building and erecting a 2,133 square foot food mart (a use permitted by right in the C-S-C Zone). A redesign of the parking layout and changes in landscaping are necessary. A new trash enclosure measuring 8 feet x 12 feet will also be added along the southern property boundary.

4. In 1989, the Board of Appeals approved a variance from Section 27-358(a)(5) to allow the westernmost driveway entrance on Sellman Road to be 23 feet in width in lieu of the required 30 feet. Currently, this driveway is 20 feet in width, thus an additional variance of three feet is requested. Finally, a variance is needed from Section 27-358(a)(5) to allow driveways to be located less than 20 feet from the point of curvature.
5. Neighborhood and Surrounding Uses: The site is surrounded by commercially zoned (C-S-C) properties improved with commercial uses. The site is bounded by the Beltsville Plaza retail center on the north across Selman Road, on the east by the Cosco Wholesale Club facility across Baltimore Avenue, on the south by a Kentucky Fried Chicken restaurant, and on the west by office buildings.

The neighborhood is a mix of residential and commercial uses, with single-family detached homes generally occupying land interior to the neighborhood and to the west along Rhode Island Avenue. Commercial uses and some multifamily dwellings are prevalent along Powder Mill Road and Baltimore Avenue.

6. Parking Regulations: The subject property will contain three uses: a car wash, a gas station, and a food and beverage store. The site plan indicates that parking will be provided as follows:

Gas Station: 1 parking space per employee required.

Food and Beverage Store (■C-Store●): 1 parking space per 150 square feet up to 3,000 square feet; 14.2 spaces required (for a 2,133 square-foot building).

Car Wash: 1 parking space per 500 square feet.; 2.1 spaces required for a 900 square-foot building;

Total parking required: 17.3 or 18 spaces, minus 20 percent reduction for joint use=14.4 or 15 parking spaces.

The site plan shows that 14 spaces will be provided. At the public hearing on December 20, 2001, the applicant correctly pointed out that the parking computations on the site plan are incorrect. The 900 square foot car wash requires 1.8 parking spaces and no parking space is required for a gas station employee since there will be no separate kiosk for gas sales. All gas will be purchased either at the pump or in the food and beverage store. There will be no specific gas station employee. The total required parking is 13 parking spaces (14.2 + 1.8=16 spaces plus 20% reduction = 12.8 or 13 parking spaces). The site plan shall be revised to indicate that a minimum of 13 parking spaces are required.

7. Section 27-325(f)(1)(D) which authorizes the Planning Board to grant certain revisions to gas station site plans, including the addition of a trash enclosure. Moreover, the proposed food mart is less than 3,000 square feet and as such is a use permitted of right in the C-S-C zone pursuant to Section 27-461(b)(E).

(a) Section 27-325(b) of the Zoning Ordinance permits changes to an approved special exception site plan for a property of less than five acres, provided that either of the following two situations exists:

Situation No. 1

(i) There is a proposed increase in gross floor area of a building or in land area covered by a structure other than a building (over that approved on the original site plan) which is not greater than 10 percent of the gross floor area or covered land area or 500 square feet, whichever is less; or

(ii) There is a proposed relocation (in any direction) of any improvement (approved on the original site plan) which is not greater than 10 percent of the distance to the boundary line of the Special Exception property or 20 feet, whichever is less.

Situation No. 2

**(i) There is a proposed change in the design of a parking lot or loading area;
or**

(ii) There is a proposed change in a landscape plan.

Situation No. 2 applies in this case because the site comprises less than five acres and the applicant is proposing a change in the design of the parking layout and changes to the landscape plan.

Section 27-325(a)(3) provides that :

- (3) The revised site plan shall comply with all applicable requirements of this Subtitle, and with any conditions, relating to the use, imposed in the approval of the Special Exception or of any applicable Zoning Map Amendment, subdivision plat, or variance.**

The specific Special Exception requirements for gas stations, which are provided in Section 27-358, are as follows:

(a) A gas station may be permitted, subject to the following:

- (1) The subject property shall have at least one hundred fifty (150) feet of frontage on and direct vehicular access to a street with a right-of-way width of at least seventy (70) feet;**

The subject property complies with this requirement. It has in excess of 150 feet of frontage along Baltimore Avenue, which has a right-of-way of 100 feet.

- (2) **The subject property shall be located at least three hundred (300) feet from any lot on which a school, playground, library or hospital is located;**

The subject property is not within 300 feet of any school, playground, library or hospital.

- (3) **The use shall not include the display and rental of cargo trailers, trucks, or similar uses, except as a Special Exception in accordance with the provisions of Section 27-417;**

The proposed Shell gas station will not include the display or rental of cargo trailers, trucks, or similar uses.

- (4) **The storage or junking of wrecked motor vehicles (whether capable of moving or not) is prohibited;**

The proposed Shell gas station will not include the storage or junking of wrecked motor vehicles.

- (5) **Access driveways shall not be less than thirty (30) feet wide, and shall be constructed in compliance with the minimum standards required by the County Road Ordinance or Maryland State Highway Administration regulations, whichever is applicable. In the case of a corner lot, a driveway may begin at a point not less than twenty (20) feet from the point of curvature (PC) of the curb return or the point of curvature of the edge of paving at an intersection without curb and gutter. A driveway may begin or end at a point not less than twelve (12) feet from the side or rear lot line of any adjoining lot;**

The subject property has four driveways, two on Baltimore Avenue and two on Sellman Road. Not all of the driveways are 30 or more feet wide. Further, not all of the driveways meet the requirements relative to their location from side lot lines and the point of curvature. However, as will be discussed in the section hereinafter dealing with variances, variances either have been obtained or are being requested. The Maryland Department of Transportation, State Highway Administration (SHA) in a memo dated October 29, 2001, notes that existing condition on the subject site are inconsistent with current SHA guidelines. The applicant will therefore be required to show access driveways configured pursuant to an access plan agreed to by State Highway Administration and the applicant.

- (6) **Access driveways shall be defined by curbing;**

All of the access driveways proposed by Shell shall be defined by curbing.

- (7) A sidewalk at least five (5) feet wide shall be provided in the area between the building line and the curb to those areas serving pedestrian traffic;**

A five-foot wide sidewalk currently exists as required.

- (8) Gasoline pumps and other service appliances shall be located at least twenty-five (25) feet behind the street line;**

The pump islands are located 18 feet behind the street line. However, the Board of Appeals has previously granted a variance of seven feet of the required 25-foot setback. Therefore, the gasoline pumps, pursuant to the grant of a variance, comply with Code requirements.

- (9) Repair service shall be completed within forty-eight (48) hours after the vehicle is left for service. Discarded parts resulting from any work shall be removed promptly from the premises. Automotive replacement parts and accessories shall be stored either inside the main structure or in an accessory building used solely for the storage. The accessory building shall be wholly enclosed. The building shall either be constructed of brick (or another building material similar in appearance to the main structure) and placed on a permanent foundation, or it shall be entirely surrounded with screening material. Screening shall consist of a wall, fence, or sight-tight landscaping material, which shall be at least as high as the accessory building. The type of screening shall be shown on the site plan;**

There will be no repair service at this facility.

- (10) Details on architectural elements such as elevation depictions of each facade, schedule of exterior finishes, and description of architectural character of proposed buildings shall demonstrate compatibility with existing and proposed surrounding development.**

A set of proposed architectural elevations has been filed with this application. The proposed new building will be constructed of pre-finished galvanized panels, glass windows and doors, and galvanized fascia panels.

- (b) In addition to what is required by Section 27-296(c), the site plan shall show the following:**

- (1) The topography of the subject lot and abutting lots (for a depth of at least fifty (50) feet);**

The site plan shows the topography as required.

(2) The location and type of trash enclosures; and

The trash enclosure is proposed to be located along the southern property boundary. It is proposed to measure 8 feet. x 12 feet. Details concerning the height and construction of the trash enclosure are submitted on the site plan drawings. The Permit Review Section, in a memo dated October 26, 2001, points out that the proposed dumpster must be screened in accordance with Section 4.4 of the *Landscape Manual*.

(3) The location of exterior vending machines or vending area.

There will be no exterior vending machines or vending area on this site after the renovation.

Section 27-358(d) also provides that when approving a special exception for a gas station, the District Council shall find that the proposed use:

(1) Is necessary to the public in the surrounding area; and

(2) Will not unduly restrict the availability of land, or upset the balance of land use, in the area for other trades and commercial uses.

The applicant submits that the proposed gas station continues to be necessary to the public and the surrounding area. The existing Shell gas station has operated on the subject property continuously since 1968. Therefore, a Shell station has operated for more than 33 consecutive years at this location. During this time, it has provided needed gasoline services for the business and residential community. As noted in the description of the neighborhood, there are a number of varied commercial uses in proximity to the subject property, both north and south, and fronting on both sides of Baltimore Avenue. Also, there are a number of residential uses located to the west of the property. Baltimore Avenue carries a substantial volume of traffic in a north/south direction during the a.m. and p.m. peak hours. Therefore, this station has provided and will continue to provide needed service for residents and workers in the area and for the traveling public traversing the Baltimore Avenue corridor. Since the subject property has, for over 33 years, been used as an automobile filling station, continuing that use will not restrict the availability of land or upset the balance of land uses in the area.

The latest minor revision to site plan (SE-1642/2) was approved by the Planning Board in September, 1997 with no conditions.

(a) Section 27-230(a) provides that a variance may only be granted when the Planning Board finds:

- 1. A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;**
 - 2. The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and**
1. The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.

In 1989, the Board of Appeals approved a variance from Section 27-358(a)(5) to allow the westernmost driveway entrance on Sellman Road to be 23 feet in width in lieu of the required 30 feet. Currently, this driveway is 20 feet in width, thus an additional variance of three feet is requested. Also, a variance is needed from Section 27-358(a)(5) to allow driveways to be located less than 20 feet from the point of curvature. The Planning Board believes that extraordinary situations and conditions exist in this case. First, with regard to the 20-foot setback from the point of curvature requirement, it must be noted that the Zoning Hearing Examiner reviewed this site in 1997 pursuant to the request for a car wash (SE-4192). During his review, the Hearing Examiner noted that the 20 foot setback requirement of Section 27-358(a) was not an issue in 1989 because the State Highway Administration, at that time, had not modified the curb on US 1. The Hearing Examiner in his decision (issued on February 27, 1997), found that the curb was modified by the State Highway Administration after 1985, which brought about the nonconformity to the 20-foot setback requirement from the point of curvature. The Board concurs with the Hearing Examiner's opinion that the government intervention was beyond the owner's control and constitutes a unique condition.

The Planning Board believes that an additional unique situation exists with regard to the westernmost driveway on Sellman Road. Currently this driveway is used for ingress and egress to the site. However, the applicant is proposing that this driveway be used as an egress-only driveway for the car wash. Therefore, the Board believes that a 20-foot-wide driveway is sufficient. Finally, the Board believes that the granting of the requested variances will not substantially impair the intent, purpose, or integrity of the Master Plan which recommends commercial use for the property.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and

Planning Commission adopted the findings contained herein and APPROVED Variance Request No. VSE-1642/01 and further APPROVED ROSP-SE-1642/03 with conditions as revised at the public hearing of the above-noted application, subject to the following conditions:

1. The method of identifying compact parking spaces in the field shall be shown on the site plan.
2. The site plan shall be revised to indicate that a minimum of 13 parking spaces are required.
3. Proposed dumpster shall be screened in accordance with Sections 4.4 of the *Landscape Manual*.
4. Revise the site plan to show access driveways configured pursuant to an access plan agreed to by State Highway Administration and the applicant.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council for Prince George's County, Maryland within thirty (30) days of the final notice of the Planning Board's decision.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Lowe, seconded by Commissioner Eley, with Commissioners Lowe, Eley, Brown, Scott and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, December 20, 2001, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 3rd day of January 2002.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator