

BOARD OF APPEALS

November 25, 2013

7:00 PM

ATTENDANCE: Board Members: Chairman William Malesh, Tim Thompson, Mike Salmon, Larry Souder, Wayne Kommalan, Town Attorney Susan Ford, Director of Planning Mary Ann Skilling and Planning and Zoning Coordinator Dianna Battaglia.

Mr. Malesh called the meeting to order at 7:00 p.m. and asked all members to introduce themselves.

APPROVAL OF MINUTES:

Motion made by Mr. Souder and seconded by Mr. Salmon to approve the October 22, 2012 meeting minutes as written. One abstention: Mr. Kommalan not in attendance. **All in Favor. Motion Passed.**

NEW BUSINESS:

File No. SE2013-01 – Special Exception request to operate a vehicle repair and glass shop at 5439 Pulaski Highway; APPLICANT/PROPERTY OWNER: Rex & Susan Burkins, 201 Kirks Mill Lane, North East, MD 21901; Tax Map 800, Parcel 109, .558 ac., zoned C-2.

The hearing began with Ms. Carol Baresh, court reporter, swearing in testifying witnesses: Mr. Charles Rex Burkins, Mr. Christopher Daniel Karschner and Ms. Skilling.

Ms. Skilling stated I will just review some of these things (on the Staff Report) that I think are important to include and we'll include the report as part of the record. Regarding waste material, some of that is in place but under our Code we have to have some inspections as well.

Ms. Ford indicated that if the staff report is in the record it's not necessary to read it, but if you want to, you could. If you just submit this into the record, perhaps if the Board had questions, if you've had an opportunity to review them, but you could go through the five additional recommendations.

Ms. Skilling continued I'll read the standards and if you have any questions regarding this section we'll be more than happy to answer them and administrative things to go through to make sure it meets those requirements. On page 5, these are additional staff recommendations so I'll go through them and if you have any questions about why we included them, then we can answer your questions.

Mr. Burkins stated there are a few things that have been mentioned, on page 2 regarding the pending approval of the access from Aiken Avenue Extended. On the 21st Commissioner Linkey brought up the fact that if after the hydraulic study, after the traffic study, after the engineering study, if Aiken Avenue Extended and Franklin Street wasn't road-worthy for trucks that I should have to upgrade the road, and I mentioned at that time that wasn't going to happen. I'm not going to upgrade a road from Franklin Street down where it's a dead end. So that should be taken out because the engineer has already told me that I only own forty (40) feet of that and the State owns the rest. So I can't have a truck entry, that's only residential. I don't want that to hold up opening for this gentleman for the vehicle repair for a disagreement between the State, the engineer and myself.

Ms. Skilling indicated that was just a recommendation from the Planning Commission and really doesn't necessarily pertain particularly to the Special Exception for the operation of which this

permissible use is referring to. That condition was put in there after Mr. Burkins asked Mayor and Commissioners for access off of Aiken Avenue Extended and isn't relevant to this Special Exception.

Mr. Malesh agreed, we can't put stipulations that would be financially impossible to achieve.

Mr. Burkins indicated most of these we would agree to. The existing fence is six (6) foot so it should be that height, anything less wouldn't hide those tanks in the back. And it's only visible when you drive behind the building but we agreed to close that in.

Mr. Malesh commented the property, obviously, has been sitting for a while and in need of paint and repair for a new business, and looking at the pictures, I'm sure with a new business you want to improve and make it inviting to customers.

Mr. Burkins stated I couldn't get an answer in a timely fashion and even though the carpet store was approved it's a little tough to move any business in there and then go through the renovations to build walls so I said until I found out about this side I didn't know which direction I was going. So it sort of hinged on if this gentleman gets approved, or if not I would have to go in a different direction. So that's why I'm here before you tonight.

Mr. Karschner indicated I was a former employee there back in the 1980s, 1990s, and clean, professionalism is what it's about, and Mr. Burkins has made great improvements from the time he purchased it and has done a lot in his efforts to get it cleaned up.

Mr. Malesh commented the only other thing I have is, other than the one thing you already mentioned, is to ask what you are not in agreement with.

Mr. Burkins replied the capturing of the grease I still don't understand because when we (Ms. Skilling, Ms. Battaglia, Mr. Conway) toured inside the building there was a fear of oil, grease, antifreeze or something getting in the storm drains which is virtually impossible because there are no drains inside and there's actually no way to make it go outside unless it goes under the door, down the driveway and out to Route 40. The reason for those tanks was to take the waste oil, grease, antifreeze, and to place it in those holding tanks and Mr. Karschner's already in tune with that with his past fourteen (14) years of having companies pickup waste products as far as batteries, antifreeze, grease, and has already given us a list.

Mr. Malesh commented most of which have been in place a long time. The fear of anything getting into our system, a biological treatment center, the Town is concerned about that so you will need to watch that because it is an expensive fix.

Mr. Karschner stated you have a better chance of an accident on the highway to cause that than us. Right now waste oil is bringing a substantial amount per gallon so to me that's black gold. We have all OSHA approved containers to catch the oil we drain out of the vehicle and then that container is put in an OSHA approved drum. Like I said earlier, in those pictures the oil drums are inside block walls and that was all OSHA approved. In case that tank should rupture the walls contain the contents and they can still drain it out. All measures have been in place to keep accidents from happening.

Ms. Skilling indicated just for clarification, it's not the runoff from in the facility or from the collection area. Our concern is any kind of contaminants getting in our sanitary sewer, it's totally different. I understand what everyone's saying but we have had incidents where somewhere, someone, has poured something down the drain, washing, cleaning, or whatever, that got into our waste, our sanitary sewer system and that becomes a concern. So I understand and they do have adequate controls for all types of

fluids but we are now testing just about every new facility coming in to make sure that it's understood that anything that goes down that drain cannot contain any contaminants and we have a consultant engineer to check that out. It is just for them to check it out to be sure and to understand we cannot have any contaminant getting into that system and to make sure the standards are being followed. Just wanted to clarify, it's not the runoff, and for any new business coming in.

Ms. Ford commented from a legal perspective, condition number nine (9) with the conditional use approval, the standard states that the site plan shall indicate the disposal methods to be used for all waste material including recycling of waste oil generated by the operation. That is something the applicant has to submit. It's already built in to the standards and the condition was basically just making sure the Town Engineer gives approval for the capture of grease and contaminants. We need to have the applicant clarify whether or not he intends to comply with this condition for the record so you can make a decision based upon what the applicant indicates what they will do or not.

Mr. Malesh stated I also noticed in there about no welding, so you can't do that, do you understand that. Any use of an acetylene torch comprising of welding, cutting or burning shall require a permit. I just wanted to mention that in case you didn't pick up on that.

Ms. Ford indicated that is a standard, it's a condition of the Special Exception. It doesn't say you can't weld, but it indicates you have to have a permit from the Zoning Administrator in order to do that. So I guess the Zoning Administrator thought that you did not intend to use any acetylene torches, so if that's not the case you need to let the board know what you do intend to do but then you will need to get a permit from the Zoning Administrator for that use.

Mr. Karschner commented obviously you haven't had your vehicles worked on because they use a torch to loosen bolts, for repairs, that's standard in the industry.

Ms. Skilling stated I'm the Zoning Administrator, and it wasn't necessarily listed as the kinds of things you would do. That is a requirement but it indicates if the Board agrees we would take a look at that application if you agree with that, we can look at consideration of that application to meet this requirement. You would indicate this is part of routine maintenance and the use would be allowed for the permit to be issued for that use.

Ms. Ford reiterated basically it's a condition of the Special Exception that if you are going to use acetylene torches for welding, that the Zoning Administrator give you a permit for that. So this board is permitted to approve your application if you are indicating, and you should tell them factually, because I don't think it's in the record yet, if you intend to use an acetylene torch. If you do they can make your approval contingent upon you submitting a permit request to the Zoning Administrator to grant a permit for that.

Mr. Karschner responded our intentions are to use acetylene torches in time of need. As far as welding, we do as needed. We're not a welding shop, we're not a fabrication shop, but we use welding on exhaust, on different components of the vehicle standard in the industry, for cutting bolts, for removing seized parts, and on the exhaust.

Motion made by Mr. Thompson and seconded by Mr. Kommalan, and adopted the motion made by Ms. Ford, to approve the Special Exception for the reasons set forth in the Staff Report and with the conditions on page 5 with an additional condition to apply for and obtain approval for welding. **All in Favor. Motion Passed.**

ADJOURNMENT:

Motion made by Mr. Souder and seconded by Mr. Thompson to adjourn the meeting at 7:35 p.m. **All in Favor. Motion Passed.**

Respectfully submitted,

Dianna M. Battaglia
Planning & Zoning Coordinator