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IN THE MATTER OF:	*	BOARD OF ZONING APPEALS
Applicants: Mid-Atlantic Lubes, LLC and ABEC Property LLC	*	CITY OF WESTMINSTER, MD
	*	
Property: 334 Gorsuch Road Westminster, MD 21157	*	Case No. 20-02
Application for Special Exception	*	

* * * * *

**RESOLUTION AND ORDER OF THE BOARD OF ZONING APPEALS
OF WESTMINSTER GRANTING A SPECIAL EXCEPTION PURSUANT TO THE
ZONING ORDINANCE OF THE CITY OF WESTMINSTER, MARYLAND**

WHEREAS, Application No. 20-02 was duly filed with the Board of Zoning Appeals of the City of Westminster, Maryland (the “Board of Appeals” or the "Board") on March 2, 2020, by Mid-Atlantic Lubes, LLC and ABEC Property LLC (jointly referred to in the singular as the “Applicant” unless otherwise noted), developer and owner (respectively) of the property located at 334 Gorsuch Road, Westminster, Maryland 21157, the parcel being identified as Carroll County Tax Map 108, Parcel 2910 (Tax Acct. 07-111657) (hereinafter referred to as the “Property”), for a special exception pursuant to §164-42S, §164-149 and §164-170A of the Zoning Ordinance of City of Westminster, Maryland (the “Zoning Ordinance”) for a quick-lube automobile service station in the B Business Zone; and

WHEREAS, after due notice, a public hearing was held via a video conference (Zoom) due to the limitations on in-person social interactions caused by the covid-19 pandemic (and broadcast live via Facebook) by the Board of Appeals on May 5, 2020, to consider Application No. 20-02. At the conclusion of the May 5, 2020 hearing, the record was closed; and

WHEREAS, at said public hearing the Applicant made a presentation with respect to Application No. 20-02 and all those who desired to be heard were heard and their testimony electronically recorded; and

NOW, THEREFORE, BE IT RESOLVED and ORDERED by the Board of Zoning Appeals of Westminster, Maryland, in response to Application No. 20-02, that a special exception to allow the use of the Property for an quick-lube automobile service station is hereby **GRANTED**.

BE IT FURTHER RESOLVED by the Board of Appeals that this decision is based upon the following findings:

Procedural Findings:

1. The application for special exception was filed on March 2, 2020.
2. In anticipation of the May 5, 2020 hearing, the Property was posted with a sign notice of hearing on April 20, 2020, notice was published in the Carroll County Times newspaper on April 12th and April 19, 2020, and a notice of hearing was sent via certified mail to the adjoining property owners and the subject property owner on April 16, 2020. The agenda for the meeting included a reference to Case 20-02 and was posted on the City's website on April 24, 2020. The Board finds that the notice requirements of §164-166 have been met.
3. No request for inspection of the Property in accordance with §164-166E was received.
4. The Board held the May 5, 2020 hearing via Zoom teleconference, with a simulcast to the City of Westminster's Facebook page at:

<https://www.facebook.com/westminstermd/videos/3387756004585570/>

Public participation in the meeting was permitted and encouraged and the notices on the City website indicated the means of signing up to be a participant in the teleconference.

5. The Board of Appeals takes notice of the Zoning Map of Westminster and that map is hereby adopted and incorporated by reference as a part of the record and these findings.
6. The Applicant offered evidence at the hearing in favor of the special exception request. No others testified in favor or against the special exception request.

Substantive Findings:

7. The Property is located in the B Business Zone of the City of Westminster.
8. The Applicant Mid-Atlantic Lubes, LLC is the developer of the Property that consists of approximately 21,610.97 sq. ft. (0.4961 AC) (See Exhibit 10) for the subject use. The owner of the Property is ABBEC Property LLC and has joined in and consented to the application for a special exception.
9. The Property is currently developed with a one-story commercial building that is vacant and which the Applicant intends to demolish to build the proposed structure. The current building was previously operated as a veterinary clinic. The prior use did not offer gasoline products or otherwise constitute a service station use.
10. The Property is located at the corner of Baltimore Blvd. (MD Route 140) and Gorsuch Road and will have vehicular access via Gorsuch Road. There is a significant grade along Gorsuch Road at the intersection. The entrance will be an entrance/exit right of way and is approximately 35 feet west from Baltimore Blvd. At the Property's location, Baltimore Blvd. is a split multiple-lane, high-traffic roadway. Gorsuch Road is an undivided road. The Applicant is negotiating to amend an existing joint access easement (See Exhibit 6) to facilitate its entrance along with access to the Tevis property to the south of the Property, currently developed with a single-family residence but planned for a future potential commercial use. The easement currently provides non-exclusive vehicular access (and

utilities) for the first 50 feet from Gorsuch Road. The easement is 35 feet wide. The current driveway is along the easement but encroaches onto the western boundary of the Property. The Applicant will identify the drive easements on the future site plan when it seeks site plan approval.

11. The Property is within a highly developed commercial neighborhood. North of the Property is the C-2 Commercial Medium Intensity District of Carroll County (outside of Westminster) and to the South is the B-Business District. To the east is the C-3 Commercial High Intensity District of Carroll County and to the west is the Commercial Intensity District of Carroll County and both the County and the City's R-7,500 Residential Districts. The R-7500 Residential District of Carroll County is to the immediate west of the vehicle access drive of the Tevis property. The City's R-7,500 Residential District is to the southwest of the Tevis Property.
12. The neighborhood is typified by development consistent with a business district, with residential neighborhoods located to the south and southwest of the Property, some of which are outside the territorial limits of the City of Westminster. North along Gorsuch Road (approximately 1,000 feet) after it crosses Baltimore Blvd. is a high school. The Tevis property is to the south of the Property (but it is within the B Business District except for the western boundary, which is within the R-7500 Residential District). It is developed with an existing residence. To the immediate east of the Property is the Boston Inn. To the north (across Baltimore Blvd.) is a McDonalds restaurant. To the west there are single family residences along Gorsuch Road with commercial uses along Baltimore Blvd.
13. The Applicant proposes the complete demolition of the existing veterinary clinic structure to replace it with a Valvoline Quick-Lube service center of 12,535 sq. ft., nine dedicated off-

street parking spaces and Applicant proposes that each queuing lane be considered one parking space for a total of 13 parking spaces. The proposed use is to provide drive-through lubrication and other limited preventative maintenance to automobiles, but not general vehicle repair. No vehicle storage is proposed on the Property. The proposed use is to be open 7 a.m. to 7 p.m. Monday through Saturday and 9 a.m. to 5 p.m. on Sundays. The Applicant expects there to be 12 to 15 full and part-time employees, 8 at most at any one time, with typically only 5 to 6 employee vehicles parked on the Property.

14. The structure to be built on the Property is a one-story commercial structure comprised of four service bays. Vehicles enter a service bay one at a time. Customers are to enter the Property from Gorsuch Road, proceed south to the rear of the structure and turn left (east) where they are to be greeted by employees who direct them into an open bay. The Applicant proposes to stack cars in the lane and expects typical stacking to be four vehicles, with up to eight on the holidays. There is a relief lane proposed for customers wishing to exit the queuing lane and drive east and then around the building to the exit. There is a retaining wall on the southern boundary of the property that will be replaced by the Applicant in its same approximate location, as its structural integrity is questionable. Applicant will propose a sign on the gable end of the tower (See Exhibit 7) and a monument sign along the northern boundary with Baltimore Blvd.
15. Oil delivery for the proposed use is to be serviced by home heating oil-sized trucks, and typically would occur every other week, with peak driving period between Memorial Day and Labor Day being three times a month. The improvements will include a 2,700-gallon epoxy-coated oil tank. Up to 500 gallons of waste oil is stored which will be the largest tank. Disposal is typically on a two-week cycle and it typically takes 10 minutes for the truck to

empty the tank. The other deliveries are three to four times a week for standard automobile parts.

16. The proposed structure will have the four service bays, an employee bathroom, a customer bathroom, a small vestibule and parts and materials storage.

17. The Property is not in direct proximity to any churches or cultural centers.

18. As set forth in § 164-42S, the service station portion of the proposed use on the Property is a special exception use in the B Business Zone.

19. Pursuant to §164-3A, Service Station, such a use is defined as:

“Any area of land, including buildings and other structures, that is used to dispense motor vehicle fuels, oil and accessories at retail, where minor repair service is incidental and where no storage or parking space is offered for rent.”
§164-3A.

20. Based upon the findings above, the Applicant’s proposed use of the Property qualifies as a service station use under the definition of §164-3A.

21. To qualify for a special exception for service station, the Applicant must prove by a preponderance of the evidence that the proposed use meets the requirements of §164-149 and the general requirements for special exceptions in §164-170. The distance requirements of §164-140 are also applicable to the proposed special exception use.

22. §164-149 requires findings that:

“A. An automobile service station may be permitted upon a finding by the Board, in addition to the findings required in Article XXII of this chapter, that:

(1) The use will not constitute a nuisance because of noise, fumes, odors or physical activity in the location proposed.

(2) The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads or intersections or its location in relation to other buildings or proposed buildings on or near the site and the traffic pattern from such buildings or by reason of its location near a vehicular

or pedestrian entrance or crossing to a public or private school, park, playground or hospital or other public use or place of public assembly.

(3) The use at the proposed location will not adversely affect nor retard the logical development of the general neighborhood or of the industrial or commercial zone in which the station is proposed, considering the service required, the population, character, density and number of similar uses.

(4) The evidence of record establishes that for the public convenience and service a need exists for the proposed use due to an insufficient number of similar uses presently available to serve existing population concentrations in the City and that the use at the location proposed will not result in a multiplicity of proposed uses. In the absence of convincing evidence to the contrary, the following shall constitute lack of probability of a reasonable public need:

(a) An automobile service station within one mile on the same side of the road, except at intersections.

(b) The presence of two service stations within the four quadrants of an intersection, including 1/2 mile from the center of the intersection in any direction.

(5) The proposed use will be conducted upon a lot having a minimum area of 20,000 square feet, provided that this size is adequate to meet the necessary services and the setback and buffering requirements, and a minimum lot frontage of 120 feet on a public road shall be required for each automobile service station site.

(6) The lot shall contain landscaping on a minimum of 10% of the site area.

B. In addition, the following requirements shall be met:

(1) When such [use] abuts a residential zone or institutional premises not recommended for reclassification to commercial or industrial zone on an adopted Master Plan and is not effectively screened by a natural terrain feature, the use shall be screened by a solid wall or a substantial, slightly, solid fence not less than five feet in height, together with a three-foot planting strip on the outside of such wall or fence, planted in shrubs and evergreens. Screening shall not be required on street frontage.

(2) Signs, products displays, parked vehicles and other obstructions which adversely affect visibility at intersections or to station driveways shall be prohibited.

(3) Lighting shall be designed and controlled so that any light source, including the interior of a building, shall be so shaded, shielded or directed that the light intensity or brightness shall not adversely affect surrounding or facing premises nor adversely affect safe vision of operators of vehicles moving on public or private roads, highways or parking areas. Such lighting shall not shine on or reflect on or into residential structures.

(4) All gasoline service station developments shall meet City off-street parking standards to ensure the safe movement of vehicles and pedestrians. The arrangement of structures, islands, driveways, parking and landscaping shall be designed so as to ensure maneuvering ease, to serve the community and not to adversely affect adjacent properties.

(5) Driveways shall be designed and located to ensure a safe and efficient movement of traffic on and off the site from the lane of traffic nearest the curb. The design, location and construction of all vehicular access driveways shall be in accordance with the applicable specifications and standards of the Department of Public Works.

(6) Gasoline pumps or other service appliances shall be located on the lot at least 10 feet behind the building line, and all service storage or similar activities in connection with such use shall be conducted entirely within the building. There shall normally be at least 20 feet between driveways on each street, and all driveways shall be perpendicular to the curb- or street line unless the Planning Director determines that those configurations would present an unreasonable risk to vehicular and pedestrian traffic and grants a modification of those requirements which would eliminate or minimize such risks. [Amended 1-28-2008 by Ord. No. 774]

(7) Vehicles shall not be parked so as to overhang in the public right-of-way.”
§164-149.

23. Joshua Sharon, a civil engineer and a land planning and design specialist, was accepted as an expert by the Board. Mr. Sharon testified that he was familiar with the proposed use and plan and opined that there would be no nuisance in the nature of noise, fumes, odors or physical activity by the proposed service station use. The Planning Director’s staff report noted the absence of any concerns related to the health and safety associated with the proposed special exception use. The Board finds that the proposed service station use will not constitute a nuisance because of noise, fumes, odors or physical activity and that any potential for

adverse impacts, if any, are no greater or more detrimental on the subject Property that would be expected on other locations within the B Business Zone. There is one residential use immediately adjacent to the Property (the Tevis property) and the Board finds that the required landscaping will screen any de minimis noise, odors, fumes or physical activity from the service station use. Therefore, the Board finds that the requirement of §164-149A(1) has been satisfied.

24. The Applicant provided the testimony of Mark Keeley of Traffic Concepts, Inc., a professional transportation planner who testified about the traffic impacts of the proposed quick-lube service station use on the Property and provided a comprehensive comparative trip generational analysis and report (See Exhibit 13) for the proposed use. The Board accepted Mr. Keeley as an expert in traffic engineering and analysis. Mr. Keeley compared the projected peak hour trips to the proposed use with the existing veterinary facility to identify potential increased loads, traffic hazards or traffic nuisances, as well as a comparison to a typical Valvoline use. The peak hour analysis disclosed less traffic in the morning (by one trip) and 6 more in the evening for the proposed use. The additional evening trips are marginal relative to the total existing volume of traffic in the area and what would be expected in the business district. Using a standard Valvoline facility as an alternative projection, the proposed use is expected to generate an average of 51 vehicles per day being serviced with 102 trips effecting the Gorsuch Road entrance and the travel volume of Gorsuch Road and the existing heavy traffic volume and capacity of Baltimore Blvd. In Mr. Keeley's expert opinion, there will be no negative traffic impacts presented by the proposed development on the Property.

25. Considering the location of the quick-lube service station use on the Property and its relation to the entrance to Gorsuch Road, the proposed entrances are adequate. Town planning staff raised concerns regarding the traffic impacts of the proposed use, including the details of site access to Gorsuch Road and the vehicular access point's proximity (35') to the intersection of Baltimore Blvd. and Gorsuch Road. Staff requested a traffic impact study but the expert noted that a traffic impact study would not be required by the Maryland Department of Transportation in this context because the 12 a.m. and 9 p.m. peak weekday trips is below the threshold of 50 peak weekday trips. The Board finds that a traffic impact study is not required for the purposes of granting a special exception, but does not opine on whether it will be necessary for future site plan approvals or approvals from the State Highway Administration. The Board finds that there is sufficient evidence that the proposed use will not create a traffic hazard or traffic nuisance. The turning movements, though close to the intersection, appear viable and the traffic patterns of ingress mitigate against any stacking concerns. The evidence provided by the Applicant was that exiting vehicles are designed to occur one at a time so it would be rare that any stacking concerns for exiting vehicles would be present. The proposed plan offers safe and efficient delivery of fuel and other goods. Therefore, the Board finds that the requirements of §164-149A(2) have been met.

26. The proposed service station use on the Property will be located within areas developed with other business uses and will offer services needed by those surrounding uses. The proposed use will not create any adverse impacts on the logical development of the general neighborhood, or the B Business Zone (commercial) in which the Property is located, but instead is consistent with the development of the neighborhood and the B Business Zone. As described in Findings 11 and 12, the Property is in close proximity with a diversity of zones,

some inside the City of Westminster and others in Carroll County. There was no evidence offered to establish an adverse impact on the surrounding uses in these types of zones. Therefore, based upon the findings, the Board finds that the requirements of §164-149A(3) have been met.

27. The Applicant offered substantial and persuasive testimony and documentation that there is a public convenience and service need for the proposed quick-lube service station use. The Applicant offered Edward Steere, AICP, of Valbridge Property Advisors who prepared a market need analysis (Exhibit 15) for the proposed use on the Property. The Board accepted Mr. Steere as an expert in market needs analysis. To analyze the supply and demand issues, Mr. Steere defined the trade area as being centered in the Westminster communities and the MD-140 commercial corridor, drawing customers from throughout central Carroll County to the regional center of the County seat of Westminster. He identified the residents in the trade area, their income and homeownership characteristics, average vehicle miles per household and commuting characteristics. There are 14 census tracts included within the trade area so defined. Due to the nature of the proposed use, the trade demand also includes commuters and consumers who are likely to travel through or do shopping within the trade area. The estimated total demand within the Westminster trade area was \$3.6 million dollars per year (\$143 per household) on automobile lubrication and oil change services. Evaluating the current supply was more nuanced. Although there are many service stations offering automobile lubrication and oil changes as part of a more comprehensive automobile servicing, Applicants and Mr. Steere submit that a quick-lube service station use as they propose is qualitatively different and meets a different market, though acknowledging some inevitable overlap. The Applicant's proposed use is a form that is designed to quickly work

on a vehicle and get it out the door, whereas the comprehensive service station is more likely to have an oil change request as part of additional work or when completed alone, in a cue of vehicles that include substantial servicing such that the vehicle must be left at the facility. The Board accepts this more limited definition of the competition as the different business models generate a qualitatively different use of the properties on which they occur.

28. The supply that forms the comparison in the Valbridge analysis comes from 3 competing quick-lube stations in the entire County. Mr. Steele opines that they meet different markets. Only one Jiffy Lube services the defined trade area (it is located in Westminster) and provides a current capacity for the trade area of 29,536 vehicles per year. The Valbridge Report identifies the total need in the trade area at 55,876 vehicles. The average commute time in the trade area is 45 minutes, so there is a substantial vehicle per mile average on a yearly basis. Mr. Steere and the Valbridge Report opines that even with some of the need being met by comprehensive services stations, there would be a shortfall of two to four required oil changes by each household and therefore there was a substantial unmet need for the Applicant's proposed use. The Board accepts the definition of the applicable market and the conclusions of Mr. Steere and the Valbridge Report (Exhibit 15).

29. Section 164-149A(4)(a) and (b) provides two standards upon which the Board must evaluate the probability of a lack of reasonable public need. The Applicant asserts that both conditions are met, as there is no active service station use within one mile and on the same side of the road as the Property and is not at an intersection, and there are not two service stations within the four quadrants of an intersection within ½ mile from the center of the intersection in any direction. With respect to the presumption standard, Applicant relies upon the Jiffy Lube being on the opposite side of Baltimore Blvd., using the main traffic pathway as the road for

comparison despite the Property being accessed via Gorsuch Road. There are no other service stations at this intersection. The Board notes that the presumption standards in §164-149A(4)(a) and (b) are only relevant when there is insufficient evidence of reasonable public need. The Board finds that even if a probability of public need under subsections (a) and (b) had been presented, convincing evidence was nonetheless presented in the Valbridge market analysis that a public need exists based upon unmet annual need within the trade established by the study.

30. In addition, the Board finds that competition between suppliers of quick-lube service station uses is good for customers and is a relevant consideration as part of the public convenience and need. Competition will benefit consumers as far as convenience, price, and the range or services available. The Applicant's proposed quick-lube service station use will provide added competition without providing a multiplicity of uses that would cause an adverse impact to the public. Based upon the findings in paragraphs 27 through 29 above, the Board finds that the Applicant has established that the proposed use will meet a need (of the public convenience and service), and therefore the requirements of §164-149A(4) have been met.
31. The Property for the proposed use exceeds 20,000 S.F. (21,610.97 S.F.). The proposed frontage on both Baltimore Blvd. and Gorsuch Road exceed 120 feet in length (See Exhibit 10). The proposed total building floor ratio does not exceed twice the total lot area, so the dimensional requirements of §164-45A(1) will be met. The landscaping buffering requirements can be met. Based upon the foregoing, the dimensional and buffering requirements can be met for the size of the Property, and therefore the requirements of §164-149(5) have been met.

32. There is enough land on the Property to meet the 10% landscaping requirement and the Applicant will need to establish sufficient plantings to meet this requirement and the requirements of the City's Landscape Manual as part of the site plan approval process. The Applicant's plan shows significant perimeter landscape plantings (See Exhibit 9, Landscaping Plan). Although there is no landscaping on the west side where the Tevis easement and the proposed drive aisle is proposed, there is existing vegetation on that western boundary of the adjacent property (See Exhibit 11). The Board finds that the Applicant has met the requirements of §164-149(6).
33. The Property does not directly abut the R-7500 residential zone, but the proposed site plan uses that portion of the Tevis property that does directly abut the R-7500 Residential Zone for the proposed drive aisle (including the current easement area), so the requirements of §164-149B(1) for effective screening are triggered. Applicant provided evidence on the western boundary of the adjacent property (See Exhibit 11) that provides sufficient screening. Nonetheless, Applicant proposes to rebuild the existing wall between the properties which will add some degree of screening effect. The Board finds that the requirements of §164-149B(1) have been met.
34. Applicant proposes two signs, one on the building and one a monument sign along Baltimore Blvd. on the corner of the Property. The Board finds that the signs and the five parking spaces on the west side of the building do not create any adverse impacts on the visibility at the intersection or the driveway access point. The Board notes that the signs must still meet the requirements of the sign regulations of the City, including within the zoning ordinance. The Applicant shall meet these requirements during the site plan approval process or via administrative review for a zoning permit.

35. There was insufficient evidence for the Board to evaluate the adverse impacts of lighting on surrounding or facing premises or the safe vision of operators of vehicles moving on Baltimore Blvd, and Gorsuch Road said adverse impacts being prohibited by §164-149B(3). The Planning Director's staff report notes that a photometric plan will be evaluated during the site plan review process. The Applicant shall meet this requirement during the site plan approval process.
36. Applicant's site plan proposes nine dedicated off-street parking spaces and Applicant proposes that each of the four queuing lanes inside the structure be considered one parking space for a total of 13 parking spaces. The proposed use is to provide drive-through lubrication and other limited preventative maintenance to automobiles, but not general vehicle repair. No vehicle storage is proposed on the Property. The Board finds that it is reasonable for the Applicant's intended use to consider the four bays as each providing one parking space to meet the parking requirements. The Zoning ordinance requires 13 parking spaces and the Board finds that the requirements of §164-149B(4) have therefore been met by the Applicant.
37. The Applicant's plan and testimony established that the design and location of driveways ensure safe and efficient movement of traffic on and off the site from the lane of traffic nearest the curb and that the design, location and construction of the vehicular access driveways are in accordance with the applicable specifications and standards of the Department of Public Works, as required by §164-149B(5).
38. The Applicant does not propose any gasoline pumps on the Property and all service appliances would be located inside the proposed building (and thus at least 10 feet behind the

building line). The Board finds that the Applicant's proposed use meets the requirements of §164-149B(6).

39. There is no planned parking area which would overhang in the public right-of-way, so the requirement of §164-149B(7) has been met. Section 164-171B requires that the parking requirements of § 164-111C be met. A service station use requires 2 spaces per bay and 1 space per employee shift. There will be four service bays and 7 parking spaces on the west of the building and two on the south. Due to the nature of the proposed use, the four service bays will by definition hold one parking space each for customers, so the total of 13 required off street parking are met. It is anticipated that an administrative adjustment would be requested to count the four service bays as a parking space. The Board finds that for the purposes of the special exception review, the Applicant meets the parking requirements of §164-111.

40. §164-140 imposes a distance requirement that reads:

“Any uses of buildings subject to compliance with this section shall be located at least 100 feet from any other lot in a residential zone or in any other zone which contains a dwelling, school, place of worship or institution for human care.”

41. Planning staff (See Exhibit 2) raised the question of whether the Applicant can meet the requirements of §164-140. The Applicant proposes to move the building eastward so the distance between the building and the Carroll County R-7500 residential zone to the west of the Property will be increased when compared to the existing veterinary use. However, it will be less than 100' from that Carroll County zoning. To the southwest of the Property, the Town's R-7,500 residential zone starts but it appears that the building is over 100 feet from that zone. The proposed automobile service station use will be 68' (less than the required 100

feet) from the Tevis property to the south which, while in the B-business district, contains a dwelling. Therefore, the proposed use may not meet the requirements of §164-140 of the Zoning Ordinance and therefore may require either a variance or, if available, an administrative adjustment. By this order the Board does not rule on the availability of either option for the Applicant as that issue was not sufficiently noticed or presented to the Board for resolution.

42. §164-170A requires a finding that:

“1. The proposed use does not adversely affect the general plan for the physical development of the district, as may be embodied in this chapter and in any Master Plan or portion thereof adopted by the Commission;

2. The proposed use at the location selected will not:

(a) Adversely affect the health and safety of residents or workers in the area;

(b) Overburden existing public services, including water, sanitary sewer, public roads, storm drainage and other public improvements; or

(c) Be detrimental to the use or development of adjacent properties or the general neighborhood or change the character of the general neighborhood in which the use is proposed, considering the service required, at the time of the application, the population, density, character and number of similar uses; and

3. The standards set forth for each particular use for which a special exception may be granted have been met.” §164-170A.

43. As described in the 2009 Comprehensive Plan, the B Business Zone along Maryland Route 140 (Baltimore Blvd.) is typified by “...significant commercial activity during both day and evening hours, including weekends. MD 140 is a divided, multi-lane highway with good vehicular access. See Chapter 9, Economic Development, Part 1 Business Patterns, Section 2: Maryland Route 140. The 2009 Comprehensive Plan sets goals including Goal E2, Objective 3, which reads: “Support the retention and expansion of existing businesses, while exploring opportunities for new business development.” The 2009 Comprehensive Plan also discusses

the type of infill development proposed by the Applicant on this Property, which remains vacant, when it states: "There are many opportunities for redevelopment and infill along MD 140. The Property is located in a commercial area which has design criteria necessary to accommodate automobile access and high traffic volumes. The Board finds that the proposed quick-lube service station use is consistent with the typical uses of the B Business Zone and is consistent with, and will not adversely affect, the general plan of development of the B Business Zone.

44. There was no evidence of any adverse impacts to the health and safety of residents or workers in the area caused by the proposed service station use and the Board finds that it would not create such adverse impacts. The redevelopment of the current veterinary clinic will improve the layout of Property in the context of the commercial neighborhood. There was no evidence that noise, fumes, or other nuisances would be created by the use. There was evidence that the plan would improve the use of the Property over the current use and its configuration.

45. There was no evidence that the proposed service station use would overburden existing public services, including water, sanitary sewer, public roads, storm drainage and other public improvements and the Board finds that it would not. The number of people living in the area will not change. The road serving the Property appears to be adequate to handle volume of traffic that would utilize the proposed service station use, though the impact of traffic on the roads, along with storm drainage, stormwater management, and related development issues will remain a consideration during site plan review by the Planning & Zoning Commission. The Planning Director staff noted concerns about any increased water demand from the proposed use. Over the last twelve quarters, the veterinary clinic used

282,765 gallons (261.82 gallons/day). The Applicant could not provide comparable water usage for similar uses but acknowledged that it will need to address public water allocations in the permitting process for its proposed use.

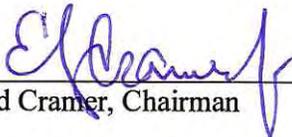
46. The Board finds that there was no evidence that the proposed service station use would be detrimental to the use or development of adjacent properties or the general neighborhood. There was testimony that the use would not create noise or other health and safety adverse impacts over and above a use commonly expected by a service station use on this Property. The Board finds that the proposed service station use is consistent with the overall neighborhood and the commercial development pattern in the B Business Zone and will not change the character of the general neighborhood, considering the services required, at the time of the application, the population, density, character and number of similar uses.
47. The Board finds that the proposed service station use will be consistent with the orderly growth of the community, a factor which may be considered by the Board pursuant to §164-169B(2).
48. Therefore, based upon all the previous findings, the Board finds that the Applicant has met its burden of proof and is entitled to an approval of its application for a special exception.

IT IS SO ORDERED.

AS CERTIFIED by the Chairman's signature below, the Board of Zoning Appeals has adopted this Resolution and Order after the public hearing held on May 5, 2020. After said public hearing, the Board voted in favor of granting the special exception, by a vote of 2 votes in the affirmative and 1 vote in the negative. The Board has adopted the findings herein and approved the passage of this Resolution and Order granting the Applicant's special exception

request, this 23 day of June, 2020. This Resolution and Order shall become effective upon its passage.

Board of Zoning Appeals,
City of Westminster, Maryland



Ed Cramer, Chairman