

IN THE MATTER OF : BEFORE THE  
 QUARLES PETROLEUM, INC. : HOWARD COUNTY  
 Petitioner : BOARD OF APPEALS  
 : HEARING EXAMINER  
 : BA Case No. 16-014N

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**DECISION AND ORDER**

On August 11, 2016, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of Quarles Petroleum, Inc. (Petitioner) for the enlargement of a self-service gasoline service station nonconforming use in a CE-CLI (Corridor Employment-Continuing Light Industrial Overlay) Zoning District, filed pursuant to § 129.0.E of the Howard County Zoning Regulations (HCZR).

The Petitioner certified to complying with the notice and posting requirements of the Howard County Code. The Hearing Examiner viewed the property as required by the Hearing Examiner Rules of Procedure. Thomas Coale, Esquire, represented the Petitioner. No one appeared in opposition to the petition. At the outset of the hearing, Petitioner determined to rest on the petition and plan and present no witness testimony.

**FINDINGS OF FACT**

The Hearing Examiner finds as follows:

1. Property Identification. The subject property is situated on the north side of US 1 (Washington Boulevard) about 200 feet southwest of Business Parkway and is known as 7410

Washington Boulevard (the "Property"). The Property is located in the 1<sup>st</sup> Election District and is identified as Tax Map 0043, Grid 0005, Parcel 375, Lots 5 & 22.

2. Parcel Description. The 34,107-square foot Property comprises two lots. Lot 5 fronts 100 feet on Southbound US 1 and Lot 22 fronts 100 feet on Roosevelt Boulevard. The Property is improved with a self-service gasoline service station comprising a canopy roof, five fuel dispenser islands, an electrical equipment shed, a diesel exhaust fuel (DEF) aboveground tank, a retaining wall and paving in the site's central area. The facility is used primarily as a truck fueling facility and is therefore almost entirely paved. The Property is relatively level.

Two entrances provide access to the Property. The US 1 entrance is centered on the Property. There is a lawn area and six trees on both sides of this entrance. There is also a drainage swale and vegetation on the east lawn area. The Roosevelt Boulevard driveway entrance is located along the northeastern property line.

3. Vicinal Properties. Adjoining properties are also zoned CE-CLI and are improved with commercial uses.

4. Roads. US 1 has two southbound travel lanes and a variable paving width within a 150-foot ultimate right-of-way. The posted speed limit is 50 MPH. According to State Highway Administration data, the traffic volume on US 1 south of MD 103 was 29,180 average daily trips in 2013. Roosevelt Boulevard has two travel lanes and about 24 feet of paving within a 60-foot ultimate right-of-way. The posted speed limit is 35MPH.

5. Water and Sewer Service. The Property is served by public water and sewer.

6. General Plan. The Property is a designated "Growth and Revitalization" on the

PlanHOWARD 2030 Designated Place Types Map. US 1 near the Property is depicted as an Intermediate Arterial road on the PlanHOWARD 2030 Functional Road Map and Roosevelt Boulevard is depicted as a local road on this map.

7. Zoning History.

BA-11-010N&V. Confirmation and enlargement of a nonconforming self-service gasoline service station and a variance to reduce the 50-foot structure and use setback from an external right-of-way, granted June 27, 2011.

BA 01-060C. Conditional Use for an alteration to an existing self-service fueling facility for a fuel island canopy approved on April 23, 2002 subject to the condition in relevant part that the US 1 frontage shall also be planted with a Type E landscaping buffer.

BA 97-31 E. Special Exception to expand an existing gasoline service station to include two additional service islands and three additional fuel dispenser approved on September 4, 1997, subject to five conditions.

BA 85-85-35E. Special exception approved for a gasoline service station approved on January 6, 1986, subject to five conditions.

8. Petition to Expand the Nonconforming Use. The proposed expansion is to accommodate the installation of two diesel exhaust fluid (DEF) dispensers under the canopy and an aboveground 2,000-gallon, 6'wx8.5'h, DEF storage tank (96sf) and a metal cabinet replacement for the tank on a 177sf concrete pad. (The petition apparently misidentifies the concrete pad as 16,848sf, not 16,848 inches.)

**CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, I conclude as follows:

**Extension, Enlargement, or Alteration of Nonconforming Uses (§ 129.0.E)**

The Hearing Authority may authorize the extension or enlargement of a nonconforming use or the alteration of a structure containing a nonconforming use, with or without conditions, provided:

**a. That any changes or additions to the activities taking place in connection with the nonconforming use will not change the use in any substantial way;**

The Petitioner proposes to install two diesel exhaust fluid (DEF) dispensers under the canopy and an aboveground 2,000-gallon, 6'wx8.5'h (96sf) DEF storage tank and a replacement metal cabinet for the tank on a 177sf concrete pad. The Hearing Examiner concludes the proposed uses will not change the use in any substantial way, in accordance with § 129.0.E.a.

**b. That an enlargement may not exceed 100 percent of the gross floor area of structures or 100 percent of the gross acreage in the case of nonconforming land, above that which legally existed at the time the use first became nonconforming;**

The requested enlargement is for a 96sf aboveground storage tank, a structure. With the proposed 96sf enlargement added to the 2,453sf approved in BA 11-010N&V, the increase in the gross floor area is about 3.9% ( $96\text{sf} + 2,452\text{sf} = 2,549\text{sf}$ ). No increase in the gross acreage of nonconforming land is proposed. The petition accords with § 129.0.E.b.

**c. That the outdoor land area occupied by a nonconforming use may be enlarged only to provide additional parking area;**

Section 129.E.0.1.c is inapplicable as Petitioner is not proposing to enlarge the area of the nonconforming use.

**d. That an enlargement would not cause a violation of the bulk regulations for the zoning district in which the property is located;**

The proposed enlargement meets the 30-foot setback from Route 1 and exceeds the 50-foot setbacks from Roosevelt Boulevard. It does not exceed the 60-foot height restriction. The petition accords with § 129.0.d.

**e. That the extension, enlargement or structural alteration would not cause an adverse effect on vicinal properties.**

The Gasoline Service Station has been operating on the Property for several decades and the proposed enlargement will only modestly increase the intensity of use in a commercial area. No additional noise or activities are proposed. The alteration would not cause an adverse effect on vicinal properties, in accordance with § 129.0.E.e.

**ORDER**

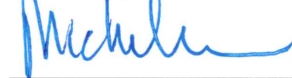
Based upon the foregoing, it is this **14<sup>th</sup> day of September 2016**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the petition of Quarles Petroleum, Inc., for the enlargement of a self-service gasoline service station nonconforming use to install a storage tank and dispensers for diesel exhaust fuel is hereby **GRANTED**;

**Provided**, however, that:

1. The enlargement/expansion shall be no more than 96sf.
2. Petitioner shall obtain all required permits.

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**



Date Mailed: \_\_\_\_\_

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.