

IN THE MATTER OF : BEFORE THE
Life Storage : HOWARD COUNTY
Petitioner : BOARD OF APPEALS
 : HEARING EXAMINER
 : BA Case No. BA-23-008N

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DECISION AND ORDER

On August 30, 2023, 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 **Life Storage** for the confirmation and expansion of a nonconforming self-storage facility use at 8255 Washington Boulevard, Jessup, Maryland.

The Petitioner provided certification that notice of the hearing was advertised and certified that the property was posted as required by the Howard County Code. I have viewed the property as required by the Hearing Examiner Rules of Procedure.

Thomas G. Coale represented the Petitioner. Robert Vogel of Robert H. Vogel Engineering, Inc., appeared and testified in support. No one appeared in opposition to the Petition.

A. Property. The Property is identified as Tax Map 43, Parcel 231 (the "Property") and addressed as 8255 Washington Boulevard. The Property comprises about 14.47 acres and is zoned CE-CLI (Corridor Employment – Continuing Light Industrial). The Property is in the 6th Election (Voting) District and the 3rd Council District.

The Property is improved by a self-storage facility that includes five (5) existing one (1) story self-storage buildings and a two-story structure office building.

B. Nonconforming Use and Proposal to Expand Nonconforming Use.

Petitioner filed on May 5, 2023, a Nonconforming Use Petition (“Petition”), and a Plan entitled “Confirmation and Expansion of Non-conforming Use” dated June 2023 and prepared by Robert H. Vogel Engineering, Inc. (“NCU Plan”).

The property, which was originally developed under Site Development Plan SDP-87-153, approved May 22, 1987, became a nonconforming use in 2004 with the adoption of a Comprehensive Zoning Plan that changed the property’s zoning from M-2 to CE-CLI. All existing uses on site were included in SDP 87-153 and have been operated in a continuous fashion since first being established.

C. Vicinal Properties. Vicinal properties are zoned CE-CLI, CE-CLI/R-MH, M-2 and CE-CLI/M-I-MXD-3.

D. Testimony.

Robert Vogel testified and explained the history of the Property. He explained the current building and property layout, and the plans to add a building.

CONCLUSIONS OF LAW

A. Confirmation of Nonconforming Uses.

HCZR § 129.0.D., Confirmation of Nonconforming Uses, states:

1. The factual existence of a nonconforming use may be confirmed by the Director of Planning and Zoning, or the Director's Designee, upon review of a petition filed by the property owner. The petition shall contain the following:
 - a. A statement and plans or other illustrations fully describing the magnitude and extent of the nonconforming use.

The petitioner submitted a statement describing the existing self-storage facility and SDP-87-153, approved on March 18, 1987, for a self-storage facility consisting of five (5) structures with a total square footage of approximately 51,003 square feet. The Petition and NCU Plan include sufficient plans, details and drawings that fulfill this criterion.

- b. A statement identifying the date the use became nonconforming to the use provisions of the Zoning Regulations.

The petitioner asserts that the self-storage facility became non-conforming on April 13, 2004, the effective date of the 2004 Comprehensive Zoning Plan, when the Property was rezoned from the M-2 (Manufacturing: Heavy) zoning district to the CE-CLI (Corridor Employment - Continuing Light Industrial) zoning district, which does not allow self-storage facilities.

- c. Documentation substantiating the existence of the use on the date it became nonconforming and clearly demonstrating the continued and uninterrupted use or operation thereof from the specified date to the time of filing the application. The burden shall be on the property owner to establish the existence of the nonconforming use.

The petitioner submitted SDP-87-153 and a Zoning Verification letter from 2019 to substantiate the existence of the self-storage facility on April 13, 2004. Aerial photographs from 2004 to 2022 were submitted to demonstrate continued and uninterrupted use as a self-storage facility.

B. Extension, Enlargement or Alteration of Nonconforming Uses.

HCZR § 129.0.E., Extension, Enlargement or Alteration of Nonconforming Uses, states:

1. The Hearing Authority may authorize the extension or enlargement of a nonconforming use or the alteration of outdoor use areas or 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 proposed enlargement consists of a 23,302 square foot, two-story self-storage building. The use will remain a self-storage facility; therefore, the proposed enlargement will not change the use in any substantial way.

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

The plan indicates that the cumulative gross floor area of the confirmed buildings is 51,003 square feet and the proposed enlargement is 23,302 square feet, which equates to an increase of 45.7%.

- c. That the boundaries of a nonconforming use may be enlarged only to provide additional parking area;

Because Petitioner is not requesting an enlargement of the boundaries, this criterion does not apply.

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

Mr. Vogel testified that the proposed enlargement will not cause a violation of the bulk regulations. The height of the proposed building is 26-feet, which is less than the 100-foot height limit in the CE zoning district. The adjacent properties are zoned CE; therefore, no setbacks are required. The proposed building is over 400 feet from the Washington Blvd public street right-of-way, which exceeds the 30-foot requirement.

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

I find that the proposed expansion will not cause an adverse effect on vicinal properties. The properties to the north contain commercial uses. The residential properties to the south are over 500 feet from the proposed building and are buffered by existing dense vegetation. There are parcels to the east and immediate south of the Property that are undeveloped, and the Property fronts on the Washington Boulevard right-of-way to the west. Therefore, the enlargement is unlikely to cause adverse effect on vicinal properties

ORDER

Based on the foregoing, it is this 28th day of September 2023, by the Howard County Board of Appeals Hearing Examiner,

ORDERED, that the Petition of Life Storage for the confirmation and expansion of a nonconforming self-storage facility use at 8255 Washington Boulevard, Jessup, Maryland, Maryland, currently consisting of five (5) existing one (1) story self-storage buildings and a two-story structure office building, and proposed to be enlarged by the addition of a new two-story, 23,302-square foot building, increasing the total square footage of all the structures on the parcel from 51,003 square feet to 74,305 square feet, is hereby GRANTED; and it is

FURTHER ORDERED, that:

1. The confirmed, enlarged, and intensified nonconforming use shall be conducted in conformance with, and shall apply only as described in, the May 5, 2023 Nonconforming Use Petition (“Petition”), and the Plan entitled “Confirmation and Expansion of Non-conforming Use” dated June 2023 and prepared by Robert H. Vogel Engineering, Inc., and not to any other activities, uses, or structures on the Property;
2. Petitioner shall obtain all required permits; and
3. Petitioner shall comply with all federal, state, and county laws and regulations.

**HOWARD COUNTY BOARD OF APPEALS
HEARING EXAMINER**

Katherine L. Taylor

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 nova by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.