

**ALLEGANY COUNTY BOARD OF ZONING APPEALS**

**IN RE: APPLICATION OF  
NOLAN AUTO FOR A  
SPECIAL EXCEPTION**

\*      **Case No.: 949**  
\*      **Hearing Date: 06/07/17**

\*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*

**FINDINGS**

This case came before the Allegany County Board of Zoning Appeals (the “Board”) upon applicant Nolan Auto’s request for a special exception for used car and truck sales in the “GU” - General Urban Zoning District.

A field inspection of the subject property was conducted by the members of the Board on June 1, 2017. The purpose of the field inspection was to familiarize the Board members with the site layout in order for them to develop an understanding as to where the proposed use would be located and as to whether the proposed use would be constructed in compliance with the terms of the Zoning Ordinance.

At the hearing on June 7, 2017, the Board considered the attached list of exhibits which consisted of information gathered by the Division Chief and information provided by other agencies and individuals.

The proposed use will be located on the east side of Maryland Route 36; 300' North of Water Station Run Road intersection, in the George’s Creek Planning Region. The applicant intends to use the property to operate a used car business.

The Board considered testimony presented at the hearing in order to ascertain whether the proposed use would meet the standards and criteria of the Zoning Ordinance. The Board’s findings are as follows:

1. The commercial sales of used cars and trucks is a special exception use in the “GU” Zoning District in accordance with Section 360-97 of the Ordinance.
2. The lot size is approximately .32 acres.
3. The proposed use meets all the necessary requirements of the existing zoning code as found in Code Section 360-125. This finding includes consideration of the pre-existing non-

conforming use which exists in regard to the structure currently located on the premises.

4. The buildable site has a slope of less than 25 percent.

5. There are no streams within 50 feet of the site upon which the proposed use will be placed.

6. There are no designated wetlands or habitats for threatened or endangered species within 50 feet of the site where the proposed use will be located.

7. There are no exterior improvements nor billboards to be attached to the building.

8. The Board found that this project requires a major site plan. Having made that determination, the Board applied the criteria of Section 360-76 (C) of the Ordinance to the site plan which was submitted by the Applicant. The Board found that the site plan met those criteria.

9. That the proposed use is in harmony with current zoning in the area and the Allegany County Comprehensive Plan.

Based upon the foregoing findings, the Board found that the Applicant will comply with the criteria of the Zoning Ordinance. Having made that determination, the Board next considered whether “the facts and circumstances indicate that the particular special exception use and location proposed would cause an adverse effect upon adjoining and surrounding properties unique and different, in kind or degree, than that inherently associated with such a use, regardless of its location within the zone ...”. Brandywine Enterprises v. County Council for Prince Georges County, 117 Md. App. 525 (1997).

No witnesses appeared nor evidence was presented in opposition to the request for special exception. Based upon the evidence presented by the applicant and the site visit, the Board found no evidence of a site specific adverse impact.

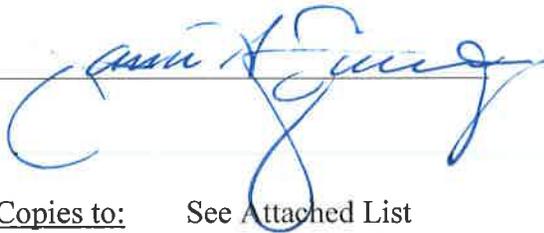
### CONCLUSIONS

Based upon the findings set forth above, the Board voted at the conclusion of the hearing of June 7, 2017, 2-0 in favor of granting the Applicant’s request for a special exception for used car and truck sales in the “GU” General Urban Zoning District. As a condition to the granting of the Board’s approval, the Applicant will be required to comply with the terms and criteria of the Zoning

Ordinance at all times. The Applicant must also obtain the approval of all State, County, and municipal agencies whose approvals are required for the conduct of the proposed use, including, but not limited to, Soil Conservation District, Allegany County Health Department, ACDPW Roads Division, Zoning Certification, Building Codes Compliance, House Numbering, Floodplain Management, Subdivision Review and Structural/Electrical Inspection Agency.

**ATTEST**

**BOARD OF ZONING APPEALS**

 By:   
**William Powell, Chairman**

Copies to: See Attached List  
Attachment: Exhibits List

# BOARD OF ZONING APPEALS

FOR ALLEGANY COUNTY, MARYLAND

CASE# 949  
NOLAN AUTO SALES

JUNE 7<sup>TH</sup>, 2017

## EXHIBITS LIST

FINAL

- A. An Allegany County *Land Use Permit Summary* covering a *Land Use Permit Application, Permit Review and Approval Checklist, and Site Plan* (4/11/2017).
- B. Completed *Petition for a Special Exception*.
- C. Photocopy of an Allegany County Tax Map for property identification.
- D. An *Adjoining Property Owners List* completed and signed by the Applicant.
- E. A *Notification of the Hearing*, with attached distribution list, dispatched to adjoining and adjacent property owners by the Secretary of the Board.
- F. *Notification of Hearing* dispatched to the Applicant by Secretary of the Board
- G. *Inter Office Memo*, prepared by the LDS office, that was distributed to the necessary review agents notifying them of this Case, date, time and requesting comment.
- H. *Public Notification*, dispatched to the Cumberland Times/News, for the purposes of notifying the general public of the hearing date, time and location.
- I. *Section B* of Saturday, April 15<sup>th</sup>, 2017, edition of the Cumberland Times/News, verifying that the *Public Notification* for Case 949 was published. This *Notice* contained an error (date). T/N ordered to correct and republish.
- J. *Page 7B* of Tuesday, April 18<sup>th</sup>, 2017, edition of the Cumberland Times/News, verifying that the *Public Notification* for Case 949 was corrected and re-published.
- K. *Order* by the Board (BOZA) regarding the cancellation of the Hearing scheduled for May 3<sup>rd</sup>, 2017.
- L. Cumberland Times/News *Public Notification* regarding the postponement of the May 3<sup>rd</sup>, 2017, BOZA Hearing for Case 949; Notice was published April 29<sup>th</sup>, 2017.
- M. A *Notification of Hearing Postponement*, dated 4/27/2017, with attached distribution list, dispatched to adjoining and adjacent property owners by the Secretary of the Board.
- N. A *Notification of Hearing Postponement*, dated 4/27/2017, dispatched to the Applicant by the Secretary of the Board.
- O. *Public Notification* dispatched Cumberland Times/News regarding the postponement of the May 3<sup>rd</sup>, 2017, BOZA Hearing for Case 949; Notice was published April 29<sup>th</sup>, 2017.
- P. A *Notification of the Hearing* (re-scheduled for 6/7/2017), with attached distribution list, dispatched to adjoining and adjacent property owners by the Secretary of the Board.
- Q. *Notification of Hearing* (re-scheduled for 6/7/2017) dispatched to the Applicant by the Secretary of the Board
- R. *Inter Office Memo*, prepared by the LDS office, that was distributed to the necessary review agents notifying them of this Case, date, time (re-scheduled for 6/7/2017) and requesting comment.
- S. *Public Notification*, dispatched to the Cumberland Times/News, for the purposes of notifying the general public of the hearing date, time (re-scheduled for 6/7/2017) and location.
- T. Portion of *Section B* of Saturday, May 13<sup>th</sup>, 2017, edition of the Cumberland Times/News, verifying that the *Public Notification* for Case 949 (re-scheduled for 6/7/2017) was published.
- U. Returned *Inter-Office-Memo*, dated 4/27/2017, from John Rudd, Town of Lonaconing (water), with comment "no comment.."
- V. *Email* dated May 11<sup>th</sup>, 2017, from Mark McKenzie - SHA, regarding conditions applied to the proposed used car sales occupancy."
- W. Returned *Inter-Office-Memo*, dated 5/22/2017, from Mark McKenzie, MDOT SHA, commenting "no objection to approval.."
- X. Memorandum dated 6/7/2017, from Amy McKenzie, LDS Planner, conveying comments relative to the project and site.
- Y. Memorandum dated 6/7/2017, from James A. Squires Jr., Division Chief, to the Allegany County Board of Zoning Appeals, regarding *site development plan* requirements.
- Z. Miscellaneous permit documents and reports regarding the previous occupancy of the parcel. (Double D Saloon)
- AA. Powerpoint presentation by Matt Brewer (consultant)

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