

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(11227 Reisterstown Road)		
4 th Election District	*	OFFICE OF
4 th Council District		
RR Partnership	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
	*	FOR BALTIMORE COUNTY
Petitioner		
	*	Case No. 2017-0075-X

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Exception filed on behalf of RR Partnership, legal owner. The Special Exception was filed pursuant to the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit a used motor vehicle outdoor sales area separated from a sales agency building.

Marc Cohen, Sean Fitzgerald, Jake Brewer and Mitch Kellman appeared in support of the petition. Jennifer R. Busse, Esq. represented the Petitioner. Two neighbors attended the hearing to obtain additional information regarding the request. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR). Neither agency opposed the request.

The subject property is approximately 4.22 acres and is zoned B.R. For many years an automobile dealership was operated at the site, although the property is now vacant. The property is located on Reisterstown Road and is adjacent to several other new and used vehicle dealerships. Petitioner proposes to lease the site to “Drive Time,” a used auto dealership which is apparently similar to a Car Max operation. Such a use is permitted in the B.R. zone by special exception, per B.C.Z.R. §236.2

Under Maryland law “the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.” Schultz v. Pritts, 291 Md. 1, 22-23 (1981). Mr. Kellman, who was accepted as an expert, opined Petitioner satisfied this standard and the requirements of B.C.Z.R. §502.1. He noted the property was previously used for auto sales and he believes this site is “ideal” for the use proposed. In the absence of any evidence to the contrary, the petition will be granted.

Two neighbors expressed concern with lighting at the site and overgrown grass and shrubs along Kingsley Road. As discussed at the hearing, landscape and lighting plans will be required, and the County will approve such plans only if the fixtures proposed reflect lighting “away from residential lots and public streets.” B.C.Z.R. §409.8.A. The new tenant has pledged to improve and maintain the appearance of the site, and if the grounds are not maintained neighbors should notify the dealership or the Code Enforcement Bureau of Baltimore County.

THEREFORE, IT IS ORDERED this 16th day of November, **2016** by this Administrative Law Judge, that the Petition for Special Exception to permit a used motor vehicle outdoor sales area separated from a sales agency building, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

2. Prior to issuance of permits Petitioner must submit for approval by Baltimore County landscape and lighting plans for the site.
3. There shall be no parking and/or display of vehicles within any landscaping strip adjacent to Reisterstown Road.
4. There shall be no loading or unloading of new or used vehicle inventory on Reisterstown Road.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln