

IN RE: PETITION FOR SPECIAL EXCEPTION*		BEFORE THE
N side of Ridge Road, 318' SE of the		
c/line of Belair Road	*	OFFICE OF
14 th Election District		
6 th Councilmanic District	*	ADMINISTRATIVE HEARINGS
(4212 Ridge Road)		
	*	FOR
Max Real Estate, LLC, <i>Legal Owner</i>		
James Quarry, <i>Contract Purchaser/Lessee</i>	*	BALTIMORE COUNTY
Petitioners		
	*	Case No. 2012-0155-X

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Exception filed by Max Real Estate, LLC, and RSC Equipment Rental. The Special Exception is filed pursuant to Section 502 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve a contractor’s equipment storage yard in accordance with Section 236.2 of the B.C.Z.R. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners’ Exhibit 1.

Appearing at the public hearing in support of the requests were David Porter and Bill Monk with Morris & Ritchie Associates, Inc., the professional engineer who prepared the site plan. Jason T. Vettori, Esquire, appeared as counsel and represented the Petitioners. There were no Protestants or other interested persons present at the hearing, and the file does not contain any letters of protest or opposition.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse ZAC comments received from any of the County reviewing agencies.

Testimony and evidence offered at the hearing revealed that the subject property is 1.95 acre in size, and is zoned BR. The site was previously used by S&S Motors, as an auto repair facility, adjacent to a new car dealership. The Petitioner proposes to operate an equipment storage, rental and retail business on the site. Mr. Porter estimated that nearly all of the sales activity will happen “in the field” at particular construction jobsites. The bulk of the operation will involve rental of equipment, tools and related machinery, and the Petitioner explained the business will be similar to the United and Sunbelt rental franchises seen in this vicinity.

The Petitioner will operate the location from 7 AM to 5 PM, Monday through Friday, with no weekend hours. Mr. Monk, who was accepted as an expert familiar with the B.C.Z.R., opined that this use would cause no greater impact upon the community at this location than would be the case at other available and permissible sites throughout the County. In fact, Mr. Monk advised that the prior use of the site – automotive repair – was a more intense use that caused more negative impacts than the storage and rental operation proposed. Finally, Mr. Monk indicated he was familiar with the standards for special exception relief set forth at B.C.Z.R. Section 502.1, and he testified (via proffer) that this proposal satisfied each of the factors enumerated in that regulation.

Of course, special exception uses are presumptively valid, People’s Counsel v. Loyola College, 406 Md 54, 77 n. 23 (2008), and no evidence was offered here to rebut the presumption. Petitioner’s expert, Bill Monk, testified that the storage garage proposed would satisfy Section 502.1 of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing, and after considering the testimony and evidence offered, I find that Petitioners’ Special Exception request should be GRANTED.

THEREFORE, IT IS ORDERED this 10th day of February, 2012, by this Administrative Law Judge, that Petitioners' request for a Special Exception filed pursuant to Section 502 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to approve a contractor's equipment storage yard in accordance with B.C.Z.R. Section 236.2, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.

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/dlw