

IN RE: PETITION FOR SPECIAL EXCEPTION *		BEFORE THE
(Red Run Blvd.)		
4 th Election District	*	OFFICE OF
4 th Councilman District		
Painter Mill Venture, LLP	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Petitioner	*	FOR BALTIMORE COUNTY
	*	Case No. 2014-0181-X
* * * * *		* *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Special Exception filed for property located at Red Run Blvd. The Petition was filed by Jason T. Vettori, Esquire, on behalf of the legal owner of the subject property, Painter Mill Venture, LLP. The Petition seeks relief pursuant to §233.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), for living quarters in a commercial building. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner’s Exhibit 1.

Appearing at the hearing was David Taylor, whose firm prepared the site plan. Jason T. Vettori, Esquire of Smith, Gildea & Schmidt, LLC attended and represented the Petitioner. The Petition was advertised and posted as required by the B.C.Z.R. There were no Protestants or interested citizens in attendance, and the file does not contain any letters of opposition. There were no adverse Zoning Advisory Committee (ZAC) comments received.

Testimony and evidence offered at the hearing revealed that the subject property is 4.72 acres and is zoned BM-CT. The Petitioner is constructing on the site a mini storage facility, which the County deems a “warehouse.” This use is permitted by right in the zone. Petitioner proposes to also construct on site living quarters for a manager/caretaker of the facility, which is apparently

a common practice at self storage businesses throughout the country. To do so requires relief under BCZR §233.3, which permits by special exception “living quarters in a commercial building.”

Special Exception Law in Maryland

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. Schultz v. Pritts, 291 Md. 1 (1981). The Schultz standard was revisited in People’s Counsel v. Loyola College, 406 Md. 54 (2008), where the court emphasized that a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

In this case, Mr. Taylor (a licensed Professional Engineer accepted as an expert) testified via proffer that the proposal satisfied the B.C.Z.R. §502.1 standards, and that the potential adverse impacts of the use at this location would be no greater than at other locations in the zone. No evidence to the contrary was presented.

Pursuant to the advertisement, posting of the property, and public hearing on this petition, and after considering the testimony and evidence offered, I find that the Petition for Special Exception should be granted, subject to the conditions noted below.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 6th day of May, 2014, that the Petition for Special Exception under §233.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), for living quarters in a commercial building, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner 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.

JEB/sln

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County