

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND SPECIAL EXCEPTION		
(11222 York Road)	*	OFFICE OF
8 th Election District		
3 rd Council District	*	ADMINISTRATIVE HEARINGS
11222 York Road Investments, LLC,		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Diamond Exchange USA II, Inc., <i>Lessee</i>		
Petitioners	*	Case No. 2015-0236-SPHX
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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Special Exception filed on behalf of 11222 York Road Investments, LLC, legal owner, and Diamond Exchange USA II Inc., lessee (“Petitioners”). The Petition for Special Hearing seeks to permit an existing freestanding sign to remain for a pawnshop. A Petition for Special Exception seeks to use the herein described property for a pawnshop in a BR zone.

Appearing at the public hearing in support of the request were Justin Carmody (owner) and professional engineer Rick Richardson. John B. Gontrum, Esquire represented the Petitioners. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations (B.C.Z.R.). There were no protestants or interested citizens in attendance. A Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency did not oppose the petition, but requested that certain conditions be included in the final order. These will be included in the order which follows.

Special Exception

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. There was no such evidence in this case.

Baltimore County permits only 12 pawnshops within the entire county. B.C.Z.R. § 436.2.D. At present, there are 11 such businesses in existence (Exhibit 4B), and thus the Petitioners were permitted to file the petition for special exception. Mr. Richardson testified (via proffer) that this would be the only pawnshop in the 3rd Council district and that no other pawnshop is located within a one-mile radius. B.C.Z.R. § 436.4.A. In addition, Mr. Richardson testified that the proposed location does not abut a residential zone, school or church, and thus the enhanced screening requirements (i.e., fence or brick wall) are not applicable. B.C.Z.R. § 436.3.A. As such, the special exception petition will be granted.

Special Hearing

The petition for special hearing seeks approval to retain an existing freestanding sign at the site. That sign (Exhibit 2D) was erected over five (5) years ago and does not contain the word “pawn” or the “three golden ball symbol designating a pawnshop.” B.C.Z.R. § 436.3.D. The regulations provide that a “freestanding business sign is not permitted.” B.C.Z.R. § 436.3.B.3. But that prohibition (in my opinion) applies to a pawnshop sign, not a legal, pre-existing sign that contains no reference whatsoever to “pawn” or “pawnshop.” Petitioner has for several years operated a diamond exchange and precious metal dealership at the location; and under the B.C.Z.R. that is not a “pawnshop.” B.C.Z.R. § 101.1. The sign pertains only to the diamond and precious

metal dealership, and is otherwise lawful under the Regulations. A restriction will be included in the Order below prohibiting the sign from containing any reference to pawn or pawnshop.

THEREFORE, IT IS ORDERED this 30th day of **June 2015**, by this Administrative Law Judge, that the Petition for Special Hearing, to permit the existing freestanding sign to remain at the site, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Special Exception to use the herein described property for a pawnshop in a BR zone, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Special Exception granted in Case No. 1982-0147-XA, permitting living quarters within a commercial building, be and is hereby RESCINDED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
2. The Petitioners shall submit for approval by the Baltimore County Landscape Architect a landscape plan for the site.
3. The existing freestanding sign on the property may remain, but it shall not contain any reference to “pawn” “pawnshop” or use the three golden ball symbol designating a pawnshop.

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

JEB:dlw

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County