

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND SPECIAL EXCEPTION		
(10 Music Fair Road)	*	OFFICE OF
3 rd Election District		
2 nd Council District	*	ADMINISTRATIVE HEARINGS
10 Music Fair Real Estate, LLP		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Diamond Automotive Services Inc.,		
<i>Contract Purchaser</i>	*	Case No. 2016-0127-SPHX
Petitioners		
* * * * *		

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 10 Music Fair Real Estate, LLP, legal owner and Diamond Automotive Services, Inc., contract purchaser (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: (1) A request for confirmation that the proposed Collectors Car Corral use (which allows tenants to store and maintain their luxury, vintage and classic automobiles and is presently located next door at 12 Music Fair Road) constitutes either a service garage, a car wash, an automobile assembly, a storage or warehousing of vehicles, a parking lot or garage, an office or a combination of the aforementioned uses; (2) A request for confirmation that the site lies in an IM District and, as such, both a "parking lot or garage" and "car wash" are permitted by right or, in the alternative, that a waiver of the requirement that this retail or service use be located in a planned industrial park as provided in B.C.Z.R. Section 253.1.C be granted; (3) A waiver of the requirements for stacking and parking spaces as well as location, setback and general design standards as provided in B.C.Z.R. Sections 419.3 & 419.4, if the use is deemed a car wash; (4) A determination of the required number of parking spaces to be provided under B.C.Z.R. Section 409.6.A, if the use is deemed to be storage or warehousing of vehicles, a parking lot or garage, a

car wash or an automobile assembly use; (5) A modified parking plan as provided in B.C.Z.R. Section 409.12.B; and (6) A determination that existing setbacks are legally permissible under State Law. A Petition for Special Exception was filed pursuant to §§ 253.2.B.3 and 253.2.B.2 to approve a service garage or car wash.

Appearing at the public hearing in support of the requests was Charles Heinle, who will own and operate the facility. Jason Vettori, Esq. represented the Petitioners. There were no Protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR), and will be discussed below.

Special Hearing

The sole issue in this case concerns how to characterize in the argot of the B.C.Z.R. the use proposed by Petitioners. As described at the hearing by Mr. Heinle, the facility is known as the Collectors Car Corral, and it will provide secure, indoor storage of vintage and luxury automobiles. This business is presently located at 12 Music Fair Road (the adjacent property), and Mr. Heinle recently purchased the business and will move the operation to 10 Music Fair Road, the subject property. Both 10 and 12 Music Fair Road are zoned ML-IM. The facility will have approximately seven employees, although only one or two employees will be working on any given shift. Mr. Heinle explained he will have an office (approximately 3,000-4,000 square feet) within the building that will handle all administrative aspects of the business. The plan indicates that 45 off-street parking spaces are provided (Ex. 1, note 30), which is more than sufficient for the proposed vehicle storage use and the business office.

Section 253.1 of the B.C.Z.R. identifies the uses permitted by right in the ML zone. Pursuant to B.C.Z.R. §253.1.C.18, “parking lots or garages” are one such permitted use. As is often the case, neither of these terms is defined in the Regulations, although I believe the Car Corral operation fits within the ordinary accepted definition of a parking lot or garage. Webster’s Third New International Dictionary, Unabridged, defines “garage” as a “building or compartment of a building used for housing an automotive vehicle.”

The Bureau of DPR noted lighting and landscape plans are required for the site, and a condition to that effect will be included in the Order below. The DOP also suggested certain conditions upon any relief granted, and those too will be included in the final Order. While the DOP suggested Petitioners be required to provide a sidewalk along the Music Fair Road frontage, I will not impose such a requirement. Mr. Heinle stated that the area is bordered by CSX railroad tracks and is primarily industrial in nature. There are no sidewalks at present along Music Fair Road, and I do not believe that a small (perhaps 250 linear feet) portion of sidewalk would be of much utility.

THEREFORE, IT IS ORDERED this 18th day of February 2016, by this Administrative Law Judge, that the Petition for Special Hearing to: (1) confirm that the proposed Collectors Car Corral use (which allows tenants to store and maintain their luxury, vintage and classic automobiles and is presently located next door at 12 Music Fair Road) constitutes a parking lot or garage pursuant to B.C.Z.R. §253.1.C.18 and is permitted as of right in the ML-IM zone; (2) that all existing setbacks (to the extent they are deficient) are lawfully nonconforming and therefore permissible under State and County law and regulations; and (3) that 45 off-street parking spaces shall be provided for the vehicle storage and business office uses, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the remaining requests set forth in the Petition for

Special Hearing be and are hereby DISMISSED AS MOOT.

IT IS FURTHER ORDERED that the Petition for Special Exception pursuant to B.C.Z.R. §§ 253.2.B.3 and 253.2.B.2 to approve a service garage or car wash, be and is hereby DISMISSED AS MOOT.

The relief granted herein shall be subject to and conditioned upon 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. Prior to issuance of permits Petitioners must submit for approval by Baltimore County landscape and lighting plans for the site.
3. No body or fender work, or painting of vehicles, shall be performed on the subject property.
4. There shall be no abandoned, inoperable, damaged and/or disabled vehicles on the premises for longer than thirty (30) days.

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