

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
(4717 Washington Blvd.)		
13 th Election District	*	OFFICE OF
1 st Council District		
RLQ, LLC	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Petitioner	*	FOR BALTIMORE COUNTY
	*	Case No. 2015-0251-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 4717 Washington Blvd. The Petition was filed on behalf of the legal owner of the subject property, RLQ, LLC. The Special Exception petition seeks relief pursuant to §253.2.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R) to use the herein described property as a Service Garage. 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 No. 1.

Appearing on behalf of the legal owner in support of the request was Robert Quinn. Patrick Richardson, a professional engineer, prepared the plan and appeared on behalf of the Petitioner. The Petition was advertised and posted as required by the B.C.Z.R. No Protestants or interested citizens attended the hearing.

Substantive Zoning Advisory Committee (ZAC) comments were received from the Bureau of Development Plans Review (DPR) and the Department of Planning (DOP). These will be discussed below.

The subject property is approximately 3.92 acres and is zoned ML-IM. The site is improved with two commercial buildings. One building is approximately 8,800 square feet and is leased to

FedEx and a paving company. The other building is approximately 6,000 square feet, and it is in this building that the Petitioner proposes to operate a service garage.

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. There was no such evidence presented in this case and the petition will therefore be granted.

ZAC Comments

The DOP requested that the dumpsters be screened or situated within an enclosure, and Petitioner is amenable to that request. The DPR noted that if a change of occupancy occurred, a landscape plan would be required. Mr. Richardson noted that Avery Harden, former Baltimore County landscape architect, approved a landscape plan for this property on August 11, 2006 in connection with the construction of the aforementioned 8,800 square foot building. It appears that some of the plantings required by that plan have died or were never installed. As such, the Order below will require Petitioner to comply with this previously approved plan.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 14th day of July, 2015, that the Petition for Special Exception to use the herein described property as a Service Garage, 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. The Special Exception area shall be the 6,000 square foot building shown on the site plan. All service garage operations must be conducted within that structure.
3. Petitioner shall within 90 days of the date hereof comply with the landscape plan approved by Baltimore County on or about August 11, 2006.
4. All dumpsters on the site must be screened or located within enclosures.

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