

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
SE side of Cockeyville Road, 690'		
NE of Beaver Dam Road	*	OFFICE OF
8 th Election District		
3 rd Council District	*	ADMINISTRATIVE HEARINGS
(227 Cockeyville Road)	*	FOR BALTIMORE COUNTY
Edward F. and Belinda E. Royston	*	
<i>Legal Owners</i>	*	
Laura Duirk, <i>Contract Purchaser</i>	*	
Petitioners	*	Case No. 2012-0134-X
	*	
* * * * *		

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings for Baltimore County pursuant to a Petition for Special Exception for the property located at 227 Cockeyville Road in the Cockeyville/Hunt Valley area of northern Baltimore County. The Petition was filed by Edward Royston and Belinda Royston, property owners, and Laura Duirk and Timonium Auto Specialists, Inc., contact purchaser (hereinafter collectively “Petitioners”). Petitioners request a special exception as follows:

- To utilize the property as a service garage pursuant to Section 253.2.B.3 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), and
- For such other and further relief as may be deemed necessary by the Administrative Law Judge of Baltimore County.

The subject property and requested relief are more particularly shown on Petitioners’ Exhibit No. 1, the Plan to Accompany the Petition for Special Exception.

Appearing at the requisite public hearing were Laura Duirk and Nelson Fackler, of Timonium Auto Specialists, Inc. (hereinafter “Timonium Auto”). Also appearing was Edward Royston, co-property owner. The Petitioners were represented by Lawrence E. Schmidt, Esquire of

Smith, Gildea & Schmidt, LLC. Also appearing was Mitchell Kellman, a land planner and zoning expert from Daft, McCune, Walker, who prepared the Plan to accompany the Petition. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. There were no Protestants or other interested persons present.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Planning, dated December 9, 2011, which states:

“The Department of Planning has reviewed the petitioner’s request and accompanying site plan. This department supports the petitioner’s request for special exception. The property is currently used as bus storage with a house that has been converted to an office. There is a large metal building to the rear of the said office that is to be used in conjunction with the proposed service garage. This department is aware that service garages are permitted in the ML zone only by special exception. As such this department is of the opinion that this use fits in with the character of the corridor, which is primarily industrial/business in nature. Therefore this Department believes that this request will not be detrimental to the health, safety or general welfare of the surrounding community”.

At the request of Petitioners’ counsel and with the consent of the undersigned Administrative Law Judge, the testimony and evidence were presented through a proffer. However, the witnesses identified hereinabove all corroborated and confirmed the proffered testimony and evidence under oath. The evidence presented established the following facts.

The subject property under consideration is a rectangularly shaped property located on the southeast corner of the intersection of Cockeysville Road and Beaver Court in the Cockeysville/Hunt Valley community of northern Baltimore County. The subject property is approximately 0.46 acres in gross area and 0.392 (17,073 square feet) in net acreage. The property is improved with two (2) structures. To the front of the lot is a small existing two-story office building which is approximately 1,090 square feet in area. It appears that this building was

originally constructed as a dwelling, however was converted into an office use to service the business on the property many years ago. A larger structure is situated to the rear of the lot. This existing one-story metal building is approximately 3,167 square feet in area. The subject property is zoned ML-IM and is served by public utilities. The property is not located within the Chesapeake Bay Critical Area and is generally unremarkable from an environmental standpoint. There are no historic structures on site and neither of the buildings exceeds the maximum permit 40 feet in height.

As noted above, the property is presently owned by Mr. and Mrs. Royston and is used as the business headquarters of the Hunt Valley Motor Coach Company. This is a bus touring company and the site is used for the storage/parking of business and maintenance thereof. The office component of the bus company is located in the smaller building located towards the front of the site and the buses are presently serviced in the large existing garage structure to the rear. Variance relief was granted in Case No. 91-492-A for that business operation. Specifically, a series of variances were granted to legitimize the location of the buildings. Although the written opinion and order issued in that case did not address the use of the property per se, it is clear that the bus yard operation was considered to be permitted as of right in the ML-IM zone.

Timonium Auto is under contract to purchase the site from Mr. and Mrs. Royston and relocate its business to this location. Presently, Timonium Auto operates at a leased location on Ridgley Road in Timonium; however, that lease is expiring and the business will move to the subject site. Proffered testimony and evidence regarding Timonium Auto's operation, both at its existing location and as proposed on the subject property, established the following facts.

Timonium Auto has been in operation for approximately 19 years. It was described as a neighborhood business and a typical service garage operation. It performs mechanical repair on

passenger automobiles, light trucks and similar vehicles. No body or fender work is performed and maintenance is not done on large tractor trailer trucks, buses or similar vehicles. The nature of the mechanical repairs ranges from simple oil changes and light maintenance to more heavy duty engine rebuilds and transmission work. Presently, the business employees six (6) employees, who are trained mechanics, in addition to Ms. Duirk and Mr. Fackler. The existing operation is conducted within a building containing six (6) service bays and the existing garage building at the subject site will be converted to contain six (6) service bays.

Insofar as the actual operation, the service garage business primarily operates five (5) days a week, Monday through Friday. Mr. Fackler typically opens the business at 6:30/7:00 a.m. however, the mechanics arrive and repairs actually begin at approximately 8:30 a.m. Repair work concludes at 5:00 p.m., although Mr. Fackler may conduct administrative duties and meet customers thereafter. Mr. Fackler leaves the premises no later than 6:30 p.m. Some limited Saturday hours of operation are anticipated, however the business will not be open on Sundays.

Much of the business is by appointment, however there is walk-in business. On a typical day, approximately 15 vehicles will be serviced. No additional building improvements or additions are proposed. Although there will be certain interior renovations to the office building and service garage building, the building footprints will remain the same. The site plan shows sufficient areas for parking and storage of vehicles which are being serviced and no zoning variances are required or requested. The business is also an approved Maryland State Inspection Station and tag and title services will be offered. Additionally, periodically, a vehicle may be sold from the property, either by way of a customer who has left the car and not paid the repair bill or for the convenience of existing customers. However, these services are clearly incidental to the primary nature of the

business as a service garage. They are but a small accessory component of the overall repair/maintenance operation.

Baltimore County Zoning Regulations (“B.C.Z.R.”) § 253.2 identifies those uses permitted by special exception in the ML-IM zone. B.C.Z.R. § 253.2.B.3 provides that services garages are permitted. A service garage is defined in B.C.Z.R. § 101.1 as “[a] garage, other than a residential garage, where motor-driven vehicles are stored, equipped for operation, repaired or kept for remuneration, hire or sale.” Clearly the nature of the Timonium Auto operation falls within this definition. As is well settled, any request for Special Exception must be judged in accordance with the criteria established under B.C.Z.R. § 502.1. The testimony of the witnesses, specifically that of Mr. Kellman, was persuasive in addressing these criteria. Clearly, there will be no detrimental impact on the health, safety or general welfare of the locale in accordance with the standard in B.C.Z.R. § 502.1.A. The subject locale is commercial/industrial/manufacturing in character and there is no residential use in the immediate vicinity. Immediately next door to the property are an existing body shop and a separate service garage use. The activities proposed on the subject site are limited in impact and consistent with those in the general area and will not be detrimental to the locale.

As to B.C.Z.R. § 502.1.B, Mr. Kellman’s proffered testimony is that the use will not tend to create congestion in roads, streets or alleys therein. This is based upon the conclusion that the traffic anticipated to be generated is minimal and the surrounding road network is sufficient. There are no failing intersections in the area and the public roads can clearly handle the anticipated traffic volumes. As to B.C.Z.R. § 502.1.C, the use will not create a potential hazard from fire, panic or other danger. The buildings are built to code and any improvements will be installed pursuant to permit. As to B.C.Z.R. § 502.1.D, the site will not tend to overcrowd land or cause an undue

concentration of population. The site plan shows that the floor area ratio on the property is under the maximum allowed and no additional construction is proposed. As to B.C.Z.R. § 502.1.E, the proposed use will not interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements. Many of the specific public uses designated in this section will not be impacted at all by the proposed use. The site is served by existing public water and sewer and these public services are sufficient in this area. Moreover, the user will be regulated by standards enforced by the Motor Vehicle Administrative which ensures an appropriate operation. As to B.C.Z.R. § 502.1.F, the proposed use will not interfere with adequate provisions for adequate light and air. As noted above, the buildings are of minimal height and no expansion is proposed. As to .BC.Z.R. § 502.1.G, the proposed use is indeed consistent with the purposes of the property's zoning classification and consistent with the spirit and intent of the zoning regulations. This use is specifically identified as permitted via special exception and is consistent with the surrounding locale. Finally, as to B.C.Z.R. § 502.1.H and I, the use can be operated without detrimental impact to the environment. Oils and similar fluids will be disposed of in accordance with County and State criteria and procedure. There will be no clearing of the site or introduction of additional impervious surface. In sum, I am easily persuaded that the criteria established in B.C.Z.R. § 502.1 have been satisfied.

Further, in considering the proposed Special Exception, it is to be noted that B.C.Z.R. § 253.2.B requires that any service garage use approved via a special exception need be located in an IM District or in a planned industrial park of at least 25 acres in net area. This criterion is satisfied based upon the properties current zoning classification and the district (IM) overlay. Moreover, it must be shown that any use will service primarily the industrial uses and related activities in the surrounding area. Proffered testimony was also presented to address these criteria. First, it is to be

noted that many of Timonium Auto's existing customer base lives and works in the immediate vicinity. It is anticipated that many of the employees of the surrounding industrial area and the uses therein will patronize Timonium Auto with their personal vehicles. Thus, the use will clearly serve these related activities/individuals in the surrounding industrial area. Additionally, proffered testimony was that the use itself will contribute to the economic viability of the surrounding industrial area. In this regard, Timonium Auto already has a business relationship with the Cockeysville Collision Center located next door. That is, Timonium Auto will frequently refer customers to that business for body shop repairs. Moreover, Timonium Auto patronizes a nearby Napa Auto Parts distributor which is located in the surrounding industrial area. Finally, it is anticipated that Timonium Auto will continue to serve certain business clients in the area, including small vehicle fleets of the businesses located in the Hunt Valley industrial vicinity. Thus, I find that the requirements of B.C.Z.R. § 253.2.B are satisfied.

Finally, as is well settled under Maryland law, it is to be observed that any special exception proposed will produce certain inherent impacts associated with that use. However, it is not the existence of these impacts in and of themselves which is significant, but the nature and extent of those impacts on the locale in question. As stated in the seminal case of Schultz v. Pritts, 291 Md. 1 (1981), "Thus, these cases establish that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone" (Pg. 15). Clearly, Timonium Auto will produce certain impacts related to traffic and the operation of the business which are commonly associated with all service garages. However, it is equally clear that those

impacts will be less significant at this location; given the character of the proposed business and surrounding operation. This business is relatively modest in nature and extent. Only six (6) service bays are proposed and the volume of business is modest. The existing improvements on site are easily large enough to accommodate the nature of the proposed operation. Moreover, the nature of the surrounding locale is of note. This is an industrial manufacturing center in northern Baltimore County and there exist identical businesses in the immediate vicinity. The impacts associated with this proposed Special Exception will not detrimentally impact this locale and will be less than might normally anticipated.

In conclusion, I find that the Petitioner has satisfied its burden at law and that relief should be granted.

Pursuant to the advertisement, posting of the property and public hearing held, and after considering the testimony and evidence offered, I find that Petitioners' request for special exception should be granted.

THEREFORE, IT IS ORDERED by the undersigned Administrative Law Judge of Baltimore County, this 28th day of December, 2011, that the Petition for Special Exception to utilize the property as a service garage pursuant to Section 253.2.B.3 of the Baltimore County Zoning Regulations ("B.C.Z.R."), be and is hereby GRANTED.

The relief granted is subject to the following:

1. Petitioners may apply for their permits 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 appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

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

Signed _____
LAWRENCE M. STAHL
Managing Administrative Law Judge for
Baltimore County

LMS:pz