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UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 286

September Term, 2009

STEVEN GALASSO, ET AL.

v.

BALTIMORE COUNTY, MARYLAND

Eyler, James R.,
Woodward,
Rodowsky, Lawrence F.
(Retired, Specially Assigned),

JJ.

Opinion by Woodward, J.

Filed: July 9, 2010

This is a dispute between appellants, Steven Galasso ("Steven"), Joanne Galasso ("Joanne"), Specialty Automotive, LLC ("Specialty Automotive"), and Automotive Emporium, Inc. ("Automotive Emporium"), and appellee, Baltimore County ("the County"), concerning three consolidated appeals for violations of the R.C. 5 (rural-residential) zoning classification at 10905 - 10911 Falls Road in Lutherville, Maryland ("the property"), regarding the operation of a body shop by appellants that services, repairs, and paints passenger vehicles on the property. Because of the complicated and extensive background to the instant appeals, we will set forth the facts and procedural history prior to identifying the issues.

BACKGROUND

This appeal is not the first time appellants[1] have appeared before this Court regarding violations of the R.C. 5 (rural-residential) zoning classification of the property. Steven, as President of Automotive Emporium, initially leased the property beginning in 2001, before Steven and Joanne purchased the property in April of 2006. Appellants have a long history of legal disputes with Baltimore County beginning in 2002, including five separate code enforcement proceedings as well as the County's petition to terminate a non-conforming use. (Please see this opinion for support) The fourth and fifth code enforcement proceedings, along with the County's petition to terminate a non-conforming use, are the subjects of the instant appeal. For the purposes of consistency and convenience, we adopt and incorporate

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[1] For the purpose of this appeal, appellants are collectively Steven, Joanne, Specialty Automotive, and Automotive Emporium, but we will refer to each appellant individually when appropriate.

portions of the factual and procedural history as set forth by Judge Arrie W. Davis in *Steven Galasso v. Baltimore County, Maryland* ("*Galasso I*"), No. 2136, September Term, 2005 (filed Oct. 23, 2006).

> In December 2001, William Long (William) signed a lease as representative of Carroll and Mary Long (Carroll and Mary respectively) with [Steven],[2] for [the] property . . . . The term of the lease was from October 1, 2001 to October 1, 2021. [Steven] was to use the property to operate an automotive repair and painting service. The lease required that [Steven] "shall comply with all statutes, ordinances, and requirements of all municipal, state, and federal authorities then in force, or which might hereinafter be in force, pertaining to the premises, occasioned by or affecting the use thereof by [Steven]." [Steven] signed the lease as "Steven L. Galasso" on the line above two lines or printed text that read: "Automotive Emporium, Inc." and "By Steven L. Galasso, President," respectively.

Id. at 1-2 (alterations in original omitted).

Before Steven leased the property, the property had been in the continuous ownership of the Long family since 1849. The Long family used the property to operate a family business that serviced certain types of transportation vehicles. Because the property was zoned residential, the operation of the Long family business was a non-conforming use of the property. In the years preceding Steven's tenancy, the Long family business had evolved into painting, servicing, and repairing "specialty" vehicles, including large tractor-trailer

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[2] In *Steven Galasso v. Baltimore County, Maryland* ("*Galasso I*"), No. 2136, September Term, 2005 (filed on Oct. 23, 2006), Steven Galasso was the only appellant from this case listed as a party in *Galasso I.*

types of trucks and military vehicles, under the business name of "Valley Services Company."

The Correction Notice & 2002 Cease and Desist Order

When Steven, as President of Automotive Emporium, trading as Lutherville Collision and Truck Center,[3] leased the property in 2001, he expanded the commercial use of the property from servicing specialty vehicles to servicing passenger automobiles and light trucks owned by the general public. This prompted the County to issue a Correction Notice to William at the property on January 9, 2002, which stated:

> **DID UNLAWFULLY VIOLATE THE FOLLOWING COUNTY LAWS:**
>
> Occupant Lutherville Collision & Truck Center
> c/o Steve Galasso
> 10905 Falls Rd.
> Lutherville, Md. 21093

[3] Throughout the record, Automotive Emporium, Specialty Automotive, Lutherville Collision & Truck Center, and Valley Services Company are referred to as entities under the control of Steven and Joanne. From our review of the record, we believe that Steven and Joanne incorporated Automotive Emporium to operate their auto repair business with the trade name of Lutherville Collision & Truck Center. Automotive Emporium was dissolved sometime in March of 2006, and was replaced by Specialty Automotive, which was formed on February 10, 2006. In our opinion, Valley Services Company is the Long family business, and is associated with appellants because of the language in the Articles of Organization for Specialty Automotive, which states that the purpose of forming Specialty Automotive was "[to do business as] The Valley Services Co[mpany] . . . ." Additionally, a sign reading "Long's Inc. VALLEY SERVICES CO. 10907 FALL RD. Custom Truck Paint and Repair cars, light, heavy duty trucks" is displayed near the property.

> . . . Cease the operation of a service garage without a hearing for a non-conforming use or apply for an appointment for zoning review to file for a non[-]conforming use.

Thereafter, William, Carroll, and Lutherville Collision & Truck Center petitioned Deputy Zoning Commissioner Timothy Kotroco for a special hearing, where Steven and Joanne appeared on behalf of Lutherville Collision & Truck Center arguing, *inter alia*, that Lutherville Collision & Truck Center should be permitted to operate under the non-conforming use established by the Long family. After a hearing, Deputy Zoning Commissioner Kotroco issued an order on November 7, 2002 that stated, in pertinent part:

> [T]he Petitioners' Request for Special Hearing to approve the use of the subject property by [] Lutherville Collision & Truck Center for the painting and repair of automobiles in the fashion demonstrated at the hearing before me, be and is hereby DENIED.
>
> * * *
>
> IT IS FURTHER ORDERED, that the business known as the "Valley Services Company," which has been owned and operated by the Long family since 1849 until the present time, shall be permitted to continue to operate from the site as it has for the past 150 years. This is truly a non-conforming use as established by the testimony and evidence presented at the hearing. Therefore, the denial of the special hearing request as it pertains to the Lutherville Collision & Truck Center shall not affect the ability of the Long family to continue to operate their business from this property as they have in the past.

Upon a motion for reconsideration, Deputy Zoning Commissioner Kotroco issued an order on January 7, 2003, revising the November 7, 2002 order. The order stated, in relevant part,

that the Motion for Reconsideration be GRANTED, to allow the Long family and the Valley Services Company to also repair and paint antique and classic automobiles on the subject property in addition to the approval previously granted to them in my Order dated November 7, 2002.

IT IS FURTHER ORDERED, that all other findings made in my previous order shall remain in full force and effect.

These orders will be referred to collectively as the 2002 Cease and Desist Order. Steven and Joanne filed a notice of appeal, but later withdrew the appeal.

The 2004 Comprehensive Zoning Map Process

On October 15, 2003, William filed an application for reclassification of the property's zoning from rural-residential, R.C. 5, to commercial, B.L. as a part of the County's 2004 Comprehensive Zoning Map Process. Steven, Joanne, and Automotive Emporium were tenants at this time, but did not join in the application. According to William, the property was reclassified as commercial in 1947, but the zoning map was never amended to reflect this change. Therefore, William requested that the zoning map be corrected. After considering William's request, the Baltimore County Council denied the application on August 31, 2004.

Meanwhile, Steven and Joanne continued to operate Automotive Emporium, doing business as Lutherville Collision & Truck Center, in violation of the 2002 Cease and Desist Order. On June 8, 2004, Deputy Zoning Commissioner Kotroco filed a complaint in the Circuit Court for Baltimore County against, among others, Steven seeking to enforce the 2002 Cease and Desist Order by requesting injunctive relief. On July 7, 2005, the day of

trial, the parties negotiated a consent agreement. On July 8, 2005, the parties presented to the court a consent judgment, which stated, in relevant part:

> any officer, director, stockholder, agent, employee, independent contractor, or assignee of Automotive Emporium [] [doing business as] Valley Services Company or Lutherville Collision & Truck Center be and they are hereby enjoined from engaging in any of the following activities at [the property]: (1) operating a service garage or a body shop for the repair of passenger vehicles; (2) repairing, painting, or performing mechanical work on passenger vehicles; and (3) using [the property] as a drop off or transfer point for passenger vehicles to be repaired or painted elsewhere; and it is further
>
> ORDERED, that Automotive Emporium [] erect a sign at or near the driveway of [the property] informing customers that they may not leave their vehicles at that location.

The consent judgment was signed by the circuit court on the same day and will be referred to herein as the 2005 Consent Judgment.

On October 25, 2005, Commissioner Kotroco moved the circuit court for an order of contempt, arguing that Steven and Automotive Emporium had violated the 2005 Consent Judgment. The trial court found Steven and Automotive Emporium to be in contempt of its order, which was affirmed by this Court on appeal. *Steven Galasso v. Kotroco* ("*Galasso II*"), No. 609, September Term, 2006 (filed on Aug. 21, 2007).

The First Code Enforcement Proceeding

Steven, Joanne, and Automotive Emporium continued to operate their business in violation of the 2002 Cease and Desist Order, spawning a series of code enforcement proceedings. In the first code enforcement proceeding,

> [t]he County issued a "Uniform Code Enforcement Citation" [] on July 6, 2004 from the Department of Permits and Development Management (the Department). The citation alleged *inter alia* "[n]on-compliance with [z]oning order dated 11-7-02 and amended order dated 1-7-03 [(the 2002 Cease and Desist Order)]. . . . Working on vehicles that are not antique and/or classic vehicles, [l]arge [t]rucks and/or specialty vehicles. . . ." The citation proposed a civil penalty of $67,600.
>
> **A hearing was held on October 4, 2004, in which [Steven] argued that he was not a proper party, nor had he received a correction notice. The Code Enforcement Hearing Officer, Raymond S. Wisnom, Jr. (Wisnom) entered a "FINDINGS OF FACT AND CONCLUSION OF LAW FINAL ORDER . . ." on November 3, 2004. Wisnom found that [Steven] was a proper party because evidence showed that he signed letters and requested a hearing as Steven Galasso, owner of Lutherville Collision and Truck Center. Thus, as [Steven] was "trading as Lutherville Collision and Truck Center [he enjoyed] a continuing relationship to the property as occupant and tenant . . . ." Wisnom further found that Deputy Zoning Commissioner, Timothy M. Kotroco's (Kotroco) order to "cease and desist immediately the painting and repair of automobiles" issued in November 2002 clearly stated what [Steven] should and should not do. Thus, the order carried "equal or more weight than a correction notice."** Wisnom ordered [Steven] to cease and desist operations and to pay a civil a fine of $25,200 within thirty days of the order.

Galasso I, slip op. at 2-3 (emphasis added) (alterations in original).

A.

The Chairman Case

Steven appealed from the November 3, 2004 order in the first code enforcement proceeding to the Director of the Department, but the Department returned the appeal as procedurally defective because appellant failed to post security in the amount of his civil

penalty as required by Baltimore County Code ("BCC") § 3-6-302(d)(2). *Id.* at 3, 3 n.1, 3 n.2. Thereafter, Steven appealed the decision by letter to the County Board of Appeals ("CBA"), but Steven's request for an appeal was denied by the Chairman who explained in a letter to Steven that his appeal was procedurally defective. *Id.* at 3. Steven appealed the Chairman's determination to the Circuit Court for Baltimore County, and the County filed a motion to dismiss. *Id.* After a hearing on March 28, 2005, the circuit court granted the County's motion to dismiss, and Steven appealed to this Court. *Id.* at 3-4. This Court, on its own motion, "dismissed the appeal for failure to supply the Information Report as required by Maryland Rule 8-205." *Id.* at 4. Steven did not file a motion to reconsider from this Court nor did he seek a writ of certiorari with the Court of Appeals. This appeal process will be referred to as "the Chairman case."

B.

Galasso I

While the Chairman case was pending on appeal, the County filed a complaint in the Circuit Court for Baltimore County to reduce to a judgment the November 3, 2004 order in the first code enforcement proceeding. *Id.* Steven filed a motion to dismiss, which was denied. *Id.* The County then filed a motion for summary judgment, to which Steven filed an opposition. *Id.* After a hearing, the circuit court granted the County's motion for summary judgment. *Id.* Steven then appealed to this Court. *Id.* at 5. This appeal process was the subject of *Galasso I.*

In *Galasso I*, Steven argued to this Court that the Department lacked subject matter jurisdiction to issue the November 3, 2004 order because, *inter alia*, (1) the Department failed to forward a copy of the citation and notice to stand trial to the District Court of Maryland for Baltimore County pursuant to BCC § 32-3-604(a)(2), *id.* at 5, (2) "the Department lacked jurisdiction to impose a monetary penalty [pursuant to] section 32-2-602 of the [BCC]," *id.*, and (3) Steven was not a proper party, as he was charged with violating a zoning *order*, not a zoning *regulation*, and he was "neither an owner, occupant, landlord, or tenant." *Id.* at 6-7.

As to Steven's first two arguments, we stated:

> **In the case *sub judice*, [Steven] raises lack of subject matter jurisdiction as to the Department's ability to have heard the matter before it, but the County cites Maryland Code as specifically granting to the Department jurisdiction through application of the enabling statute.** Md. Code Art. 66B § 1.02(b)(6) (providing "[t]he following sections of this article to apply to a charter county . . . § 7:02 (Civil penalty for zoning violation)"). Maryland Code § 7.02 provides in pertinent part: "[a] local legislative body of a county may provide a civil penalty for a zoning violation, which shall be enforced as provided in this section. . . . A zoning official may deliver a citation to a person believed to be committing a civil zoning violation." Md. Code Art. 66B § 7.02(b);(c)(1). As stated, *supra*, Maryland Code provides that Baltimore County may, "[i]n addition to the jurisdiction granted in § 7.02 of this article," provide an administrative proceeding by ordinance to enforce its regulations, which may include the "authority to impose civil fines and penalties for zoning regulations." Md. Code Art. 66B § 14.02(b); (c). Maryland Code further provides that an express power, granted and conferred upon a charter county, is to enact local laws relating to zoning, including "[t]he power to provide for the right of appeal of any such matter" to the circuit court and thereafter the Court of Appeals. Md. Code Art. 25A § 5(X)(1)(i)(1). The power enumerated in Article 25A

> also provides that "by ordinance [] a violation of a zoning law or regulation enacted under this section may be a civil zoning violation" and that it "shall be enforced as provided in Article 66B, § 7.02 of the Code." *Id.* at § 5(X)(1)(ii).
>
> * * *
>
> Appellant's claim that the Baltimore County Code does not authorize a fine for violations of zoning orders is answered by a reading of Baltimore County Code. Title 3 provides that a person is subject to a civil penalty if the use of the property violates *either* the "Baltimore County Zoning Regulations" *or* "[o]rders of the Zoning Commissioner of Board of Appeals." Baltimore County Code Title 3 § 32-3-602(a)(1)(2) (emphasis added). Thus, as to subject matter jurisdiction of the Department to issue the citation and levy a fine, appellant's claim is without merit.

Id. at 12-13 (emphasis added) (alterations in original).

Next, we addressed Steven's argument that he was not a proper party. We explained that, when this Court dismissed Steven's appeal in the Chairman case, the findings of fact and conclusions of law in the November 3, 2004 order became a final judgment. *Id.* at 15. The November 3, 2004 order included a ruling that Steven was a proper party. *Id.* at 16. At that time, Steven could have sought a writ of certiorari from the Court of Appeals or filed a motion to reconsider with this Court. *Id.* at 15-16. Because he did neither, we concluded that "the issue of proper party was decided and all avenues for appeal exhausted." *Id.* at 16. Accordingly, citing the doctrine of collateral estoppel, we held that Steven was precluded from relitigating the "proper party" issue in the current appeal. *Id.*

The Second Code Enforcement Action

The second code enforcement proceeding arose from a citation issued in March of 2005 to Lutherville Collission and Truck Center and Steven as "[o]wner-[o]ccupant/[l]essee."[4] *See Steven Galasso v. Baltimore County, Maryland* ("*Galasso III*"), No. 1647, September Term, 2006 (filed on June 21, 2007), slip op. at 9-10, 10 n.7. The second code enforcement proceeding was also the subject of an appeal to this Court.

In *Galasso III*, Steven

> was charged with "failure to comply with [the 2002 Cease and Desist Order] . . . failure to comply with Final Order date[d] November 3, 2004; failure to cease repair of vehicles restricted by Deputy Zoning Commissioner's Order as amended; failure to cease parking in area not approved as per site plan and failure to provide dustless and durable surface on residential property zoned RC 5 . . . ." The citation proposed a civil penalty of $58,400.

Galasso III, slip op. at 10. On May 20, 2005, the Department conducted a hearing, but neither Steven nor his counsel appeared. *Id.* Thereafter, the hearing officer issued the "Findings of Fact and Conclusions of Law Final Order," *id.* at 10, and ordered "that a civil penalty be imposed in the amount of $58,400.00[.]" *Id.* at 12 (alteration in original). Steven did not appeal to the CBA or challenge the penalty in any other manner. *Id.*

Similar to *Galasso I*, Steven only challenged the merits of the citation after the County filed a complaint against him in circuit court to reduce the administrative order to a

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[4] Another citation was issued to Automotive Emporium, Inc. and Joanne Galasso as resident agent, which was not at issue on appeal. *See Steven Galasso v. Baltimore County, Maryland* ("*Galasso III*"), No. 1647, September Term, 2006 (filed on June 21, 2007), slip op. at 9-10, 10 n.7.

judgment. *Id.* at 12-13. Like *Galasso I*, the County filed a motion for summary judgment, which Steven opposed. *Id.* at 13-14. The circuit court granted summary judgment in favor of the County. *Id.* at 1. Steven appealed from that decision.

On appeal, Steven "advance[d] arguments virtually identical to the ones he advanced in *Galasso I*." *Galasso III*, slip op. at 16. He argued that the Department lacked subject matter jurisdiction, stating that the owner and landlord was Carroll Long and that Automotive Emporium was the tenant, and thus he "was not an owner, occupant, landlord, or tenant of the property." *Id.* He also argued that he "was not the proper 'defendant' because the matter against him was a violation of a zoning order, not a zoning regulation[.]"[5] *Id.* (alteration in original). We held that, "under the doctrine of collateral estoppel, [Steven] [was] barred from relitigating the issue." *Id.* at 30.

The Third Code Enforcement Action

In the County's brief, the County stated that "[i]n the third code enforcement proceeding, there were no civil penalties assessed against [appellants] and no appeals were filed." Accordingly, we will not discuss the underlying facts of that enforcement action.

The Fourth Code Enforcement Action

The fourth code enforcement action is one of the subjects of the instant appeal. On July 14, 2006, a total of four citations were issued against appellants. The citations were

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[5] Steven raised two additional arguments on appeal, which are not relevant to the instant appeal.

issued against (1) Steven, for violations from April 16, 2006, through August 18, 2006, and imposing a penalty of $24,800.00 ("Citation A"), (2) Joanne, for violations from April 16, 2006, through August 18, 2006, with a penalty of $24,800.00 ("Citation B"), (3) Specialty Automotive, doing business as Valley Services Company, for violations from February 10, 2006, through August 18, 2006, with a penalty of $37,800.00 ("Citation E"), and (4) Automotive Emporium (occupant/lessee), resident agent Joanne, for violations from November 3, 2005, through August 18, 2006, with a penalty of $57,600.00 ("Citation F"). Each of the citations contained similar language, charging non-compliance with the 2002 Cease and Desist Order.

A hearing was held on August 18, 2006 before Hearing Officer Raymond S. Wisnom, Jr. on all of the citations. The County admitted twelve exhibits into evidence. The County's exhibits included a memo written by an inspector dated January 6, 2006; a photograph of the sign informing customers not to leave their cars at the property required under the 2005 Consent Judgment; photographs taken by a neighbor, Robert L. Williams, of, among others, passenger vehicles and light trucks parked on the property, someone taking customers to their cars parked on the property, a regular passenger vehicle being worked on, and a sign near the property that read "Long's Inc. VALLEY SERVICES CO. 10907 FALLS RD. Custom Truck Paint and Repair cars, light, heavy duty trucks;" and a personal log of Williams' observations documenting the types of cars on the property, appellant' business, and the dates of the observation.

The memo written by the inspector, dated January 6, 2006, stated, in part:

> As I was approaching the site heading north on Falls Road, I saw [Steven] driving a tow truck with a white passenger vehicle on the flatbed stopped on the south side of Falls Road waiting for traffic to clear so he could turn into the site. When he saw me, he decided not to bring the vehicle into the site and continued south on Falls Road.
>
> Once I got to the site the manager came out, locked the gate and said that the property was posted and that I was not permitted on the property. I told her to tell it to the police when they come. While I waited, I took a picture of the paper on the wall that was typed stating "No Customer Drop Off[,]" [the sign required under the 2005 Consent Judgment]. I had to get within two feet of the paper to read its message. I then went around to the side fence, looked through the holes to see the same black and gray Honda Civic missing the rear bumper and I also saw another passenger vehicle almost hidden towards the rear of the property that had body damage in the front end. I attempted to take a picture.

There was more than six hours of testimony contained on the record. In the Findings of Fact and Conclusion of Law Final Order for Citations A (Steven) and B (Joanne), Hearing Officer Wisnom summarized the testimony:

> Williams, [a neighbor], testified that painting and repair of ordinary passenger vehicles is continuing unabated. [] Williams has kept logs and taken photographs of activities of the subject site. County Exhibit, page 75, lists nine instances of passenger cars dropped off or leaving from behind the fenced area from April 18, 2006 through May 7, 2006. Photographs taken by [] Williams show continued traffic of ordinary passenger vehicles traveling on and off the premises. There is clear animus between [Steven] and [] Williams. However, notwithstanding the inappropriate behavior as chronicled in the file exhibits, the photographs and logs appear to show continued non-compliance.

[] Paul G. Miller testified that he drives by the subject site 3-4 times a day. He testified that the business of repairing ordinary passenger cars appears to be continuing unabated.

Debbie Jones testified for [appellants]. [] Jones, listed as the Resident Agent, believes that she is the owner of Specialty Automotive, LLC. . . . According to [] Jones, she operates Specialty Automotive, LLC as a minority business owner. She stated that customers leave cars on the weekends and evenings despite a sign informing customers to deliver cars to the Hereford Shop. The sign is found on page #32 of the County Exhibits. The sign is small and inconspicuous. . . . [] Jones testified that the shop is usually closed when [] Williams is home. [] Williams works during the daytime hours. . . . [] Jones stated that no passenger cars were repaired at the property. She also stated that cars were not dropped off at the site while she [was] on the premises. She attribute[d] the traffic to employee's cars, sales persons, lost persons, and turnarounds. [] Jones stated that she does estimates on damage at the site "pretty much everyday" quickly changed to "about 2 times per week."

[Jones and Steven] were allowed to view the County photographic exhibits and testify to what was done to a car, where it was delivered to, why it came to be on the property, etc., etc.

Based on the testimony and the evidence submitted, Hearing Officer Wisnom found:

Obvious efforts to obscure vision from offsite have been made. A fence blocks the view of the overhead door to the shop. Random inspections to verify compliance have been denied. **A preponderance of the evidence continues to point to the fact that the owners of the subject property continue to allow the repair of regular passenger vehicles at this location. Vehicles are routinely dropped off and the property used for a transfer point contrary to the Order signed by Circuit Court Judge Robert E. Cadigan. County Exhibit page 46, 48 and 49 show regular passenger vehicles being worked on. Page 50 shows a sign touting repair of cars, light trucks, etc. It is the opinion of this Hearing Officer that the repair of ordinary passenger vehicles has continued unabated dating back to the year 2002 when the correction notice was issued and is continuing to this day.**

> It is also the opinion of this Hearing Officer that the owners of record, Steven [] and Joanne [] have allowed, aided and abetted the furtherance of repair to ordinary passenger cars via Specialty Automotive LLC doing business as The Valley Services Company.

(Emphasis added).

Consequently, Hearing Officer Wisnom ordered that a civil penalty be imposed in the amount of $20,600.00.

In the Findings of Fact and Conclusion of Law Final Order for Citation E (Specialty Automotive LLC), Hearing Officer Wisnom acknowledged that there was "a history of change of ownership and company name changes associated with the subject site," but found "Specialty Automotive [] [doing business as] The Valley Services Company to be in violation of repairing ordinary passenger vehicles." Hearing Officer Wisnom, however, failed to impose the penalty set forth in the citation, and instead ordered "that the repair of ordinary passenger vehicles shall cease immediately."

In the Findings of Fact and Conclusion of Law Final Order for Citation F (Automotive Emporium), Hearing Officer Wisnom found that the evidence demonstrated that Automotive Emporium dissolved on or around March 10, 2006, but determined that "[t]he persons holding the property" were liable "for any violations" that existed on the property. Concluding that Automotive Emporium operated in violation of the cease and desist order, Hearing Officer Wisnom ordered "that the repair and painting of ordinary passenger vehicles cease and desist immediately." Similar to his determination in Citation E, Hearing Officer Wisnom failed to impose the penalty set forth in the citation.

Appellants appealed to the CBA. In an Opinion and Order dated December 8, 2006, the CBA remanded the matter to Hearing Officer Wisnom for further clarification of his decision to reduce the civil penalties for Citations A and B from a combined total of $49,600 to a combined total of $20,600, as well as his decision to dismiss entirely the civil penalties imposed in Citations E and F.

Hearing Officer Wisnom clarified his decision in a letter to the CBA dated January 22, 2007. He justified his reduction of the civil penalty for Citations A and B, reasoning that even though "[e]ach owner can be assessed a civil penalty," assessing each owner for the same violation was "extreme and inappropriate." He further explained that he dismissed the penalties for Citations E and F, because the entities cited were "working at the behest of the owners, [Steven and Joanne]."

After reviewing the clarification letter, in a Final Opinion and Order, dated May 29, 2007, the CBA found Hearing Officer Wisnom's determination of the civil penalties "arbitrary and capricious," and reinstated all of the civil penalties initially set forth in the citations.

The Fifth Code Enforcement Proceeding

The fifth code enforcement proceeding is also the subject of the instant appeal. On February 16, 2007, a total of four citations were issued to appellants. The citations were issued to (1) Steven, for violations from August 19, 2006, through February 16, 2007, with a penalty of $36,200.00, (2) Joanne, for violations from August 19, 2006, through February

16, 2007, with a penalty of $36,200.00, (3) Automotive Emporium, resident agent Joanne, for violations from August 19, 2006, through February 16, 2007, with a penalty of $36,200.00, and (4) Specialty Automotive, doing business as Valley Services Company, resident agent Jones, for violations from August 19, 2006, through February 16, 2007, with a penalty of $36,200.00. Each of the citations contained similar language, charging non-compliance of the 2002 Cease and Desist Order.

A hearing was held on March 9, 2007 before Hearing Officer Wisnom on all of the citations. Hearing Officer Wisnom listed twelve exhibits that the County admitted into evidence, including the notes from an inspector documenting his observation of approximately nine passenger vehicles and light trucks on the property; a summary of film clips listing the types of vehicles observed entering and leaving the property; a photograph of a sign near the property that read "Long's Inc. VALLEY SERVICES CO. 10907 FALLS RD. Custom Truck Paint and Repair cars, light, heavy duty trucks;" photographs of passenger vehicles parked at the property; an email dated March 9, 2007, wherein an inspector summarized an encounter between Steven, himself, and another inspector during a random inspection where Steven "came out with a shotgun," "loaded 2 shotgun shells, "racked the gun," and threatened the inspectors with profane and racial [epithets], such as "if [you] even come back you['re] going to get f-ing hurt . . . don't come back!;"and photographs of Steven loading the shotgun.

Hearing Officer Wisnom listed 17 exhibits that appellants admitted into evidence, including a response to the County's summary of film clips that explained why passenger vehicles were on the property, photographs of trucks, and an online SDAT printout demonstrating that both Valley Services Company and Automotive Emporium were dissolved entities.

Hearing Officer Wisnom reviewed the relevant testimony in the Findings of Fact and Conclusion of Law Final Order, stating:

> **Testimony and evidence from County witnesses show regular passenger vehicles routinely on the premises in greater numbers than trucks, specialty vehicles and antiques. Evidence and witness accounts show a very obvious intent on the part of the operators to shield from view any repairs taking place on the premises.** Body shops routinely do not allow customers to walk through the shop area, few if any, obscure the view so completely. It is apparent to this Hearing Officer that [appellants], collectively are going to extreme measures to shield the operations from view.
>
> **[Steven] produced a shotgun to emphasize the point that no one from the County is allowed on the premises. According to two witnesses, [Steven] brandished the gun, two shells, loaded the shells into the gun, shucked one shell to the firing chamber and threatened [the inspectors]; an extreme measure to say the least. Obviously, the property harbors something to hide.** In addition, a different entry way is used for cars entering the fenced area affording a shield from the front parking area, blocking view of the movements of the vehicle thereafter. Also, a large trailer body has been parked outside the fenced area and serves as a shield to objects and actions beyond. If all repairs taking place on this property are allowed repairs as [Steven] insists, then there should be no reason to prevent ordinary unannounced inspections during normal working hours. The inspectors do not have to necessarily walk through the shop area but can see what they need to see at the doorway to the shop

in the fenced area. [Steven] concentrates his efforts to thwart such action.

[] Jones, Resident Agent and operator of Specialty Automotive LLC [doing business as], [] Valley Services Company [] testified regarding the photos submitted showing a cavalcade of passenger cars. She identified numerous vehicles as belonging to [appellants], employee cars, sales persons cars, and parts delivery cars. When asked to provide employee names, [] Jones refused to answer. [] Jones also refused to give any information regarding employee's vehicles. She did say there were 5 employees working on the site. She also stated that customers continue to drop-off vehicles despite a court ruling prohibiting the use of the property as a drop-off and transfer site. The court also ruled that a sign stipulating this prohibition [must] be posted at the driveway entrance. Signs are posted however as ruled previously by this Hearing Officer, they are woefully inadequate. In fact, signs on the premises displayed in a more predominate fashion continue to advertise painting and repair of cars.

(Emphasis added).

Based on the testimony and evidence submitted, Hearing Officer Wisnom found:

The preponderance of the evidence points to business as usual for the subject property. [Appellants] have not persuaded this Hearing Officer that they are now complying with the [2002 Cease and Desist Order]. I find all [appellants] to be in violation of the Order. It is evident that the vehicle repair of ordinary passenger vehicles is continuing. It is also evident that the ongoing vehicle repairs at subject property site bears no resemblance to repairs and fabrications performed by the Long family business.

Accordingly, Hearing Officer Wisnom ordered a civil penalty of $200.00 per day for a duration of 113 days, for a total penalty of $22,600.00 for each of the following persons or entities: (1) Steven and Joanne, (2) Automotive Emporium, and (3) Specialty Automotive, doing business as Valley Services Company.

Appellants appealed to the CBA. A hearing was held before the CBA on May 30, 2007. In an Opinion and Order dated June 14, 2007, the CBA found that "[t]here [was] a preponderance of evidence in the file that [a]ppellants ha[d] continued to violate the [2002 Cease and Desist Order] by working on prohibited passenger vehicles." The CBA also concluded that the property was properly zoned rural-residential, because the County Council denied William's application for a reclassification by legislative action on August 31, 2004. The CBA additionally adopted the civil penalty imposed by Hearing Officer Wisnom.

Termination of the Non-Conforming Use

After appellants allegedly ignored the determinations of multiple code enforcement proceedings and continued to use the property in violation of the 2002 Cease and Desist Order, the County and the Department filed a Petition for a Special Hearing before the Zoning Commissioner seeking to terminate the non-conforming use on the property.

After a hearing, the Zoning Commissioner ordered, "pursuant to Sections 500.6, 500.7 and 104.1 of the Baltimore County Zoning Regulations (B.C.Z.R.)[,] that the non-conforming use granted [on the property], [be] hereby terminated." The Zoning Commissioner also ordered, among other things, that the service building on the property "shall be razed."

Appellants appealed to the CBA. A *de novo* hearing was conducted on August 7, 2007, and a public deliberation was held on September 25, 2007. Lynn Lanham, a Division Chief in the Baltimore County Office of Planning, Hearing Officer Wisnom, Williams, and Miller testified on behalf of the County. The history of the property, including the

proceeding resulting in the 2002 Cease and Desist Order, as well as the prior code enforcement proceedings, were presented to the CBA. The County also submitted

> a copy of an agreement between Nationwide Motor Sales Corporation [("Nationwide")] and Automotive Emporium, Inc., and Valley Services [Company], in which Nationwide agreed to "exclusively refer to Automotive [Emporium] beginning on November 1, 2003 and continuing as long as this agreement or any extension thereof is in effect all vehicles that require body and paint service." The agreement stated that Automotive [Emporium] does and will operate its body and paint shop at [the property] and "will maintain at that location facilities that are capable of performing first-class body and paint repairs to vehicles referred by Nationwide, including the storage of said vehicles." The agreement contemplated 5 years of work.

Carroll, William, Jones, and Steven testified on behalf of appellants. Jones testified that she had been the manager of appellants' business for five years and "at no time, when she was there, had ordinary passenger vehicles been repaired on the property." The CBA found that "Jones' testimony was not considered [] credible" based on the many photographs showing numerous automobiles parked on the property waiting for repairs. The CBA also noted that, "[w]hen questioned about the fact that [Steven] had sued the manufacture[r] of a paint booth in the Circuit Court for Baltimore County alleging that, due to the defective paint booth, [Steven] lost $50,000.00 a month for five years, [Steven] invoked his Fifth Amendment privileges against self-incrimination," and that Steven was "very evasive in his answers."

In addition to arguing to the CBA that they were not servicing and repairing ordinary passenger vehicles on the property, appellants also contended, *inter alia*, that the action

should be dismissed because B.C.Z.R. 104.8 was a violation of enacting *ex post facto* laws and was a violation of their constitutional right against property takings by the government. Appellants also contended that the evidence presented during the hearing, such as the citations imposed upon appellants, was "the result of hearings and procedures in violation of the Constitution and Maryland Declaration of Rights."

In its Opinion, the CBA stated:

> The issue with respect to the zoning of the property as being commercial has been litigated, and [Steven and Joanne's] position has been found to be invalid. [] William [] moved to change the zoning in the 2004 Comprehensive Zoning Map Process, but the County Council did not change the zoning. It is up to the County Council to determine the zoning for that property, and they have given due consideration and found that the property should be zoned R.C. 5.
>
> Code Enforcement hearings have been initiated against [appellants] on five occasions. In addition, [Steven] has agreed to a Consent [Judgment] in the Circuit Court for Baltimore County and has violated that Consent [Judgment] and has been fined $14,600.00. All of this apparently means nothing to [Steven], who continues to flaunt the orders of the Zoning Commissioner, this Board, and the Circuit Court for Baltimore County.
>
> The Board does not credit the testimony of [] Jones or Steven [] with respect to the testimony that they were not painting or repairing passenger automobiles at the subject site. In addition, the Board does not feel that it is necessary to implement § 104.8 of the BCZR since the Board feels that the nonconforming use has changed or expanded. Several cases have held that where a nonconforming use has changed or expanded, the nonconforming use is terminated. See *Prince George's County v. Gardner*, 293 Md. 266-268; *Canada's Tavern v. Town of Glen Echo*, 260 Md. 206.
>
> In addition, the Board feels that the argument that Hearing Officer Wisnom's findings were procedurally irregular and should be

held to be invalid because he assisted counsel for the County during hearings before the Zoning Commissioner and this Board has no merit. As stated by the Zoning Commissioner, [appellants] were in effect claiming that the County officials acted in an arbitrary and capricious manner in prosecuting these violations and imposing fines against [appellants], but, "in the absence of evidence to the contrary, administrative officer[s] . . . [are] presumed to have properly performed their duties and to have acted regularly and in a lawful manner." *Maryland Securities Commissioners v. US Secs. Corp.*, 112 Md. App. 574, 588 (1988). Therefore, with respect to the constitutional issues raised by [appellants], the Board finds that [appellants] were given a fair and impartial hearing on the issues and that the penalties and fines were warranted in this matter. The Board notes that [appellants] have filed an action in the United States District Court for the District of Maryland, alleging constitutional issues and that the Court refused to issue a cease and desist order prior to the hearing before the Zoning Commissioner.

The Board bases its findings on the testimony of William [] that it was necessary for them to engage in repairs of passenger automobiles in order to sustain their business, the fact that numerous photos were taken by various individuals showing passenger automobiles needing repairs on the premises of [appellants], the agreement between Nationwide Automotive and [appellants] to perform automobile repairs at the subject site for a 5-year period beginning in 2003, and the fact that the repairs were being made in violation of the [2002 Cease and Desist Order]. This expanded the nonconforming use. Thus, this Board finds that Steven [], [Joanne] and the various business entities are in violation of the zoning regulations by expanding the nonconforming use and that it should be terminated.

(Emphasis added).

Accordingly, on September 28, 2007, the CBA ordered, *inter alia*, the termination of the non-conforming use on the property pursuant to §§ 500.6, 500.7, and 104.1 of the

B.C.Z.R. The CBA, however, did not feel that it had "the authority to order the razing of the existing service building at [the property]."

Circuit Court

Appellants filed petitions in circuit court for judicial review of the fourth and fifth Code enforcement proceedings, as well as the termination of the non-conforming use on the property. The petitions were consolidated for the purpose of appeal. After a hearing on March 6, 2009, the circuit court affirmed the decision of the CBA in all three matters.

This timely appeal followed.

Questions Presented

On appeal, appellants present three questions for our review, which we have expanded into four questions and rephrased:

I. Was there substantial evidence to support the findings of facts and conclusions of law of the Baltimore County Code Enforcement Hearing Officer in the fourth code enforcement proceeding?

II. Was there substantial evidence to support the findings of facts and conclusions of law of the Baltimore County Code Enforcement Hearing Officer in the fifth code enforcement proceeding?

III. Was there substantial evidence to support the decision of the CBA terminating the non-conforming use previously permitted on the property?

IV. Did the CBA commit any errors of law in its decisions in the fourth and fifth code enforcement proceedings or in its decision to terminate the non-conforming use on the property?

For the reasons stated herein, we shall affirm the decisions of the CBA, thereby affirming the judgments of the circuit court.

DISCUSSION

Standard of Review

"Although the judicial act being appealed to us is literally the . . . ruling of the [circuit court], our review will look not so much at the circuit court action as through it to the . . . decision of the [CBA]." *People's Counsel for Balt. County v. Country Ridge Shopping Ctr., Inc.*, 144 Md. App. 580, 591 (2002) (emphasis omitted). "Judicial review of the decision of an administrative agency rendered in a quasi-judicial proceeding is quite narrow[.]" *Adventist Health Care, Inc. v. Md. Health Care Comm'n*, 392 Md. 103, 120 (2006). "[D]ecisions of administrative agencies are prima facie correct and carry with them the presumption of validity." *Id.* at 129 (internal quotations omitted). The issue of statutory or regulatory construction is one of law, which we review *de novo*. *Adventist Health Care, Inc.*, 392 Md. at 124. "[W]e do not defer to the agency's legal conclusions. In other words, we may always resolve whether the agency made an error of law and we are not bound by the Board's interpretation of the law." *Young v. Anne Arundel County*, 146 Md. App. 526, 568, *cert. denied*, 372 Md. 432 (2002).

When appellate courts review an issue of fact, "the standard of review is the substantial evidence test." *Tochterman v. Balt. County*, 163 Md. App. 385, 406 (2005). In other words, "[t]he reviewing court's task is to determine 'whether there was substantial evidence before the administrative agency on the record as a whole to support its conclusions.'" *Stover v. Prince George's County*, 132 Md. App. 373, 381 (2000) (quoting *Md. Comm'n on Human Relations v. Mayor and City Council of Balt.*, 86 Md. App. 167, 173 (1991)). "In applying this 'substantial evidence' standard, the reviewing court must determine 'whether a reasoning mind reasonably could have reached the factual conclusion that the agency reached.'" *Tochterman*, 163 Md. App. at 407 (emphasis omitted) (quoting *Eberle v. Balt. County*, 103 Md. App. 160, 166 (1995)).

"[T]he substantial evidence test is also frequently referred to as the 'fairly debatable' test." *Tochterman*, 163 Md. App. at 408. If evidence exists in the record supporting the agency's decision, then

> the matter is considered to be "fairly debatable", and the courts may not substitute their judgment for that of the [agency] . . . . On the other hand, where the action of the board is not supported by substantial evidence the board's decision cannot be said to be "fairly debatable". Under those circumstances the board's finding falls into the category of being arbitrary, capricious and a denial of due process of law.

Id. (internal quotations, emphasis, and citations omitted). The substantial evidence test also applies "to conclusions on mixed questions of law and fact." *Id.* at 409. Moreover, "[c]redibility determinations are left to the finder of fact, in this case, the administrative agency. 'We give great deference to the agency's assessment of the credibility of the

witnesses.'" *Bereano v. State Ethics Comm'n*, 403 Md. 716, 746 (2008) (quoting *Schwartz v. Md. Dep't of Natural Res.*, 385 Md. 534, 554 (2005)).

Appellants' Argument on Substantial Evidence

On appeal, appellants argue that the decisions of the CBA are "not supported by competent, material, and substantial evidence." In their brief, appellants do not clearly relate their contentions to any of the three CBA decisions on appeal. Therefore, we will assume that appellants' contentions apply to all of the CBA's decisions at issue in the instant appeal.

Appellants contend that the evidence merely supported the conclusion that passenger vehicles were parked on the property, not that "any automobile repair [was] being done on the vehicles." Moreover, appellants argue that testimony from Steven and Jones explained "which [cars] were owned by [appellants] and their employees, and which cars had been left by customers for delivery to their other location in Hereford, where passengers cars could be repaired or were awaiting estimates." According to appellants, only one photograph showed "any sign of work" being done on a vehicle, but Steven explained that the car in the photograph had been dropped off by a tow truck and an employee had removed its bumper in order to transfer it to the Hereford location. Appellants also argue that the CBA ignored evidence of a log sheet they submitted documenting the vehicles appellants repaired on the property. This evidence, appellants argue, demonstrates that they were not using the property in violation of the 2002 Cease and Desist Order.

Appellants additionally argue that the CBA ignored evidence casting doubt on Williams' credibility. For example, there was evidence "proving that . . . Williams harbor[ed] ill will toward [appellants]," such as a judgment against Williams for malicious prosecution. Finally, appellants contend that the CBA "erred when [it] found that [] [a]ppellants were repairing cars for Nationwide" at the property, because appellants "introduced evidence to show that the contract was terminated on July 9, 2004."

I.

Was there substantial evidence to support the findings of facts and conclusions of law of the Baltimore County Code Enforcement Hearing Officer in the fourth code enforcement proceeding?

In the fourth code enforcement proceeding, the County submitted twelve exhibits, and appellants submitted one, a site plan for the property. One of the County's exhibits was a memo written by an inspector, wherein the inspector observed the sign required under the 2005 Consent Judgment informing customers that they could not leave their vehicles at the property. According to the inspector, he had to stand within two feet of the sign to read it. Another exhibit depicted a sign, much larger in size, that read "Long's Inc. VALLEY SERVICES CO. 10907 FALLS RD. Custom Truck Paint and Repair cars, light, heavy duty trucks." Logically then, customers would more readily see and read the larger sign that advertised the business as repairing "cars, light, [and] heavy duty trucks," but not the smaller sign warning customers not to leave their vehicles at the property, which Hearing Officer Wisnom described in his finding of facts as "small and inconspicuous."

Williams and Miller, two witnesses who testified for the County, stated that the business of repairing and painting passenger vehicles appeared to be continuing. Williams supported his testimony with photographs showing passenger vehicles parked on the property and appellants taking customers to their cars. Contrary to appellants' contention that Hearing Officer Wisnom and the CBA ignored evidence of Williams' "ill will" towards them, Hearing Officer Wisnom found: "There is clear animus between [Steven] and [] Williams. However, notwithstanding the inappropriate behavior as chronicled in the file exhibits, the photographs and logs appear to show continued non-compliance." Accordingly, Hearing Officer Wisnom did not ignore Williams' ill will toward appellants; he credited Williams' testimony because the exhibits supported his testimony.

Hearing Officer Wisnom also heard testimony from Jones and appellants that purported to explain why certain cars were on the property and how cars were repaired. Aside from the site plan, however, appellants produced no additional evidence to buttress their testimony that they were not servicing and repairing cars in violation of the 2002 Cease and Desist Order.

Although there was no direct evidence that appellants were repairing passenger vehicles on the property, a rational inference could be drawn from the testimony and other evidence before Hearing Officer Wisnom that appellants were continuing to paint and repair passenger vehicles in violation of the 2002 Cease and Desist Order. Accordingly, there was

substantial evidence to support the findings of facts and conclusions of law of Hearing Officer Wisnom in the fourth code enforcement proceeding.

II.

Was there substantial evidence to support the findings of facts and conclusions of law of the Baltimore County Code Enforcement Hearing Officer in the fifth code enforcement proceeding?

In the fifth code enforcement proceeding, appellants were cited for the very same violation as in the fourth code enforcement proceeding, namely, violating the 2002 Cease and Desist Order. Hearing Officer Wisnom relied on the testimony of witnesses and photographic evidence to conclude that appellants "show[ed] a very obvious intent . . . to shield from view any repairs taking place on the [property]." Specifically, Hearing Examiner Wisnom referred to a potentially violent clash where Steven loaded and racked a shotgun while ordering two inspectors to get off the property. Photographs of Steven loading the gun were also submitted as evidence.

Hearing Officer Wisnom further relied on the physical structure of the business to conclude that appellants intended to hide the repairing of passenger vehicles, noting that "a different entry way [was] used for cars entering the fenced area," which "afford[ed] a shield from the front parking area" and concealed the whereabouts of the vehicle upon entry. These circumstances, particularly Steven's use of a shotgun to eject the inspectors from the property, substantially supported Hearing Officer Wisnom's conclusion that appellants were using the property in violation of the 2002 Cease and Desist Order. As Hearing Officer

Wisnom stated: "If all repairs taking place on this property [were] allowed repairs as [Steven] insist[ed], then there [w]ould be no reason to prevent ordinary unannounced inspections during normal working hours."

Furthermore, Hearing Officer Wisnom noted that a sign informing customers not to leave their vehicles on the property was "woefully inadequate," compared to the "predominate" sign advertising the property as a business that painted and repaired cars. The comparison added to the circumstantial evidence that appellants were using the property in violation of the 2002 Cease and Desist Order.

Hearing Officer Wisnom also heard testimony from Jones that the cars on the property belonged to employees, sales persons, and parts delivery cars. Jones, however, refused to provide the names of employees or any information on employee vehicles when asked. If passenger cars on the property, in fact, belonged to employees, Jones would have been able to provide the names of the employees or information about their cars when asked, or the employees in questions could have testified that the cars on the property belonged to them.

Therefore, we hold that the evidence supported Hearing Officer Wisnom's finding that appellants continued to paint and repair passenger vehicles in violation of the 2002 Cease and Desist Order. Accordingly, there was substantial evidence to support the findings of facts and conclusions of law of Hearing Officer Wisnom in the fifth code enforcement proceeding.

III.

Was there substantial evidence to support the decision of the CBA terminating the non-conforming use previously permitted on the property?

After multiple code enforcement proceedings, the County filed a petition to terminate the non-conforming use on the property. After a hearing and a public deliberation, the CBA ordered the termination of the non-conforming use on the property pursuant to §§ 500.6,[6] 500.7,[7] and § 104.1 of the B.C.Z.R.

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[6] Baltimore County Zoning Regulation (B.C.Z.R.) § 500.6 provides:

> In addition to his aforesaid powers, the Zoning Commissioner shall have the power, upon notice to the parties in interest, to conduct hearings involving any violation or alleged violation or noncompliance with any zoning regulations, or the proper interpretation thereof, and to pass his order thereon, subject to the right of appeal to the County Board of Appeals as hereinafter provided.

[7] B.C.Z.R. § 500.7 provides:

> The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.
>
> With respect to any zoning petition other than a petition for a special exception, variance or reclassification, the Zoning Commissioner shall schedule a public hearing for a date not less than 30 days after the petition is accepted for filing. If the petition relates to a specific property, notice of the time and place of the hearing shall be conspicuously posted on the property for a period of at least 15 days before the time of the hearing. Whether or not a specific property is

(continued...)

"[A] nonconforming use exists if a person utilizes property in a certain manner that is lawful before and up to the time of the adoption of a zoning ordinance, though the then-adopted zoning ordinance may make that previously lawful use non-permitted." *Purich v. Draper Props., Inc.*, 395 Md. 694, 708 (2006). B.C.Z.R. § 104.1 provides:

> A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that **upon any change from such nonconforming use to any other use whatsoever**, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, **the right to continue or resume such nonconforming use shall terminate.**

(Emphasis added).

In *County Council of Prince George's County v. E.L. Gardner, Inc.*, 293 Md. 259 (1982), the Court of Appeals explained:

> Nonconforming uses have been a problem since the inception of zoning. Originally they were not regarded as serious handicaps to its effective operation; it was felt they would be few and likely to be eliminated by the passage of time and restrictions on their expansion. For these reasons and because it was thought that to require immediate cessation would be harsh and unreasonable, a deprivation of rights in property out of proportion to the public benefits to be obtained and, so, unconstitutional, and finally a red flag to property

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[7](...continued)

> involved, notice shall be given for the same period of time in at least two newspapers of general circulation in the county. The notice shall describe the property, if any, and the action requested in the petition. Upon establishing a hearing date for the petition, the Zoning Commissioner shall promptly forward a copy thereof to the Director of Planning (or his deputy) for his consideration and for a written report containing his findings thereon with regard to planning factors.

> owners at a time when strong opposition might have jeopardized the chance of any zoning, most, if not all, zoning ordinances provided that lawful uses existing on the effective date of the law could continue although such uses could not thereafter be begun. **Nevertheless, the earnest aim and ultimate purpose of zoning was and is to reduce nonconformance to conformance as speedily as possible with due regard to the legitimate interests of all concerned, and the ordinances forbid or limit expansion of nonconforming uses and forfeit the right to them upon abandonment of the use or the destruction of the improvements housing the use.**

Id. at 267 (emphasis added) (internal quotations omitted).

Accordingly, local ordinances generally permit "existing uses to continue as nonconforming uses subject to various limitations upon the right to change, expand, alter, repair, restore, or recommence after abandonment." *Id.* at 268. "These local ordinances and regulations must be strictly construed in order to effectuate the purpose of eliminating nonconforming uses." *Id.*; *accord Purich*, 395 Md. at 712. Therefore, under B.C.Z.R. § 104.1 "any change from such nonconforming use to any other use *whatsoever*," such as a change from repairing specialty vehicles to repairing passenger vehicles, "shall" result in the termination of the non-conforming use. (Emphasis added).

In the case *sub judice*, the CBA terminated the non-conforming use on the property, finding that appellants expanded, and thus changed, the non-conforming use. The CBA supported it decision with testimony from Hearing Officer Wisnom outlining the history of the property, the proceedings that resulted in the 2002 Cease and Desist Order, and the prior code enforcement proceedings involving the property. The CBA referred to this evidence when it found that orders from the Zoning Commissioner, the CBA, and the circuit court

prohibiting the repair of ordinary passenger cars on the property "mean[t] nothing" to appellants.

Jones testified on behalf of appellants before the CBA that no passenger vehicles had been repaired on the property when she was the manager. Steven also denied the painting and repair of passenger vehicles on the property. The CBA found, however, that in light of the substantial evidence to the contrary, their testimony was not credible.

Even though there was no direct evidence that appellants were repairing and servicing passenger cars on the property, the facts as previously found in the fourth and fifth code enforcement proceedings supported such a conclusion. The CBA indicated that it also based its finding on William's statement that such repairs were necessary to sustain the business, photographs of passenger vehicles in need of repair parked at the property, and an agreement between Nationwide and entities controlled by appellants to perform, among other things, "body and paint repairs to vehicles referred by Nationwide."

Appellants contend that the CBA ignored evidence that they submitted proving that the "contract [with Nationwide] was terminated on July 9, 2004." Appellants refer us to three letters written by Nationwide to Steven "accepting [Steven's] request to terminate the contract as of October 1, 2004."[8] Our review of the record, however, reveals that these three

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[8] Appellants claim July 9, 2004 as the termination date of the contract with Nationwide. The date of July 9, 2004, however, is actually the date of a letter Steven received from Nationwide's counsel regarding the termination of the contract. The series of letters provided in the record extract demonstrate that the purported termination date was (continued...)

letters were not before the CBA, and thus could not have been considered by the CBA. Nevertheless, even if the CBA had been presented with evidence that the contract terminated on October 1, 2004, the other evidence before the CBA was more than enough to support the CBA's finding that appellants expanded, and thus changed, the non-conforming use on the property, which in turn justified a decision terminating such use. Therefore, we hold that there was substantial evidence to support the decision of the CBA terminating the non-conforming use previously permitted on the property.

IV.

Did the CBA commit any errors of law in its decisions in the fourth and fifth code enforcement proceedings as well as in its decision to terminate the non-conforming use on the property?

Appellants argue that the CBA committed several errors of law in its decisions, which we will address individually in turn.

A.

Bias Against Appellants

According to appellants:

> The [CBA] erred when it remanded [the fourth code enforcement proceeding] to [Hearing Officer Wisnom] to increase the penalties. And [] Hearing Officer [Wisnom] was forced to follow [the CBA's] instructions. The [CBA] took this action *sua sponte* during an appeal by [] [a]ppellants of Hearing [Officer Wisnom's] rulings on [Citations A, B, E, and F].

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[8](...continued)
October 1, 2004.

Therefore, appellants conclude that the CBA "showed bias [against] appellants."

The short answer to appellants' contention is that this argument is waived. *See State Comm'n on Human Relations v. Kaydon Ring & Seal, Inc.*, 149 Md. App. 666, 700 (2003) ("By not arguing before the ALJ that the Commission did not make out a *prima facie* case and by not challenging before the Appeal Board the ALJ's decision that the Commission in fact made out a *prima facie* case, [the appellant] failed to preserve the issue for judicial review."); Rule 8-131(a). Even if the argument was preserved, the fact that the CBA remanded Hearing Officer Wisnom's rulings on the citations for further explanation is not proof of bias. The CBA remanded the decisions because Hearing Officer Wisnom chose not to order the penalties imposed in the citations, and the CBA wanted an explanation of the reasoning behind that decision. Hearing Officer Wisnom wrote a letter to the CBA with the requested clarification. Based on that letter, the CBA found that Hearing Officer Wisnom's decision not to impose the penalties from the citations was "arbitrary and capricious." The CBA thus committed no legal error.

B.

Automotive Emporium was Dissolved

Appellants contend that the CBA erred when it enforced the citations issued to Automotive Emporium, a dissolved corporation, in the fourth and fifth code enforcement proceedings. Appellants failed to raise this argument before the CBA in the fourth code

enforcement proceeding. Accordingly, we consider this issue waived for the purpose of the instant appeal. *See State Comm'n on Human Relations*, 149 Md. App. at 700; Rule 8-131(a).

Appellants, however, raised this argument before the CBA in the fifth code enforcement proceeding. The evidence indicates that Automotive Emporium dissolved sometime in March of 2006 and that the citation against Automotive Emporium in the fifth code enforcement proceeding was issued on February 16, 2007, for violations occurring from August 19, 2006, to February 16, 2007, well after Automotive Emporium had dissolved. Therefore, we reverse the judgment as to the citation issued to Automotive Emporium in the fifth code enforcement proceeding.

C.

Period of Time in Citations was Unreasonable

Appellants argue that the time period for which the penalty was imposed in the citations at issue in the fourth and fifth code enforcement proceedings was unreasonable for the following reasons: (1) The citations in the fifth code enforcement proceeding were a form of harassment, because they were issued when the fourth code enforcement proceeding was pending on appeal; (2) the different periods of time for which the citations imposed a penalty in the fourth and the fifth code enforcement proceedings "was an attempt . . . to charge multiple fines against multiple people or entities for the same offense," and thus was an abuse of discretion; (3) the citations were issued in the fourth code enforcement proceeding

on July 14, 2006, but penalized appellants for prospective violations through August 18, 2006, which was an abuse of discretion; (4) section 3-6-205(a) of the BCC permits only citations against persons, not corporate defendants; (5) section 32-3-602(c) of the BCC permits only a penalty of $200 for each violation, and thus the Code Officer "had no authority to issue more than one citation per violation;" and (6) section 3-6-201 of the BCC requires that citations be issued for violations of the County Code, rendering the citations issued to appellants unenforceable as they did "not allege violations of a Baltimore County Code Provision or a Code."

Based on our review of the record, with the exception of the last argument, appellants failed to raise any of these arguments in any of the forums below. Therefore, we consider these arguments waived on appeal. *See State Comm'n on Human Relations*, 149 Md. App. at 700 (2003); Rule 8-131(a).

Appellants' last argument – the citations must allege a violation of the Baltimore County Code – was previously decided in *Galasso I*, wherein this Court explained "that a person is subject to a civil penalty if the use of the property violates *either* the 'Baltimore County Zoning Regulations' *or* '[o]rders of the Zoning Commissioner or Board of Appeals.'" slip op. at 13 (alteration and emphasis in original) (quoting Baltimore County Code Title 3 § 32-3-602(a)(1)(2)). "When an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the doctrine of collateral estoppel renders that determination conclusive in a subsequent action between

the parties, whether on the same or a different claim." *Campbell v. Lake Hallowell Homeowners Ass'n*, 157 Md. App. 504, 519 (2004) (internal quotations omitted). Consequently, appellants are collaterally estopped from raising this argument in the instant appeal.

D.

Appellants' Request to Stand Trial in the District Court of Maryland for Baltimore County

According to appellants, the Code Officer "refused to forward a copy of [appellants'] Citation and the Notice of Intent to defend to the nearest District Court," violating BCC § 32-3-604(a). Therefore, appellants conclude that "the Code Officer had no authority or power to assess the penalty."

This argument was raised and disposed of in *Galasso I*, slip op. at 5, 12-13, when this Court explained that "the Department's ability to have heard the matter before it" is found in the Maryland Code "specifically granting the Department jurisdiction through the application of the enabling statute." *Id.* at 12. Thus appellants are collaterally estopped from relitigating this issue in the instant appeal. *See Campbell v. Lake Hallowell Homeowners Ass'n*, 157 Md. App. 504, 519 (2004).

E.

Correction Notice

Appellants contend that the Code Officer was required to issue a correction notice before issuing a citation, and that they did not receive a correction notice before any of the

citations at issue in the fourth and fifth code enforcement proceedings. According to appellants,

> [t]he correction notice issued to William [] on January 9, 2002 [] does not satisfy this requirement because at that time he was the agent and son of the title owner, Carroll [], who was the proper person to receive the notice. But in 2006 and 2007, when [the] [c]itation[s] . . . were issued, [appellants] were the owners and were entitled to their own correction notices.

Appellants are mistaken.

The correction notice issued to William on January 9, 2002 also addressed Steven as the occupant of the property by stating: "Occupant Lutherville Collision & Truck Center . . . c/o Steve Galasso." Therefore, appellants, through Steven, received notice of the zoning violation.

Furthermore, the decision to issue a correction notice in this type of enforcement proceeding is completely discretionary. BCC § 3-6-203(a) states: "After inspection, if the Code Official or the Director determines that a person has committed a violation, *the Code Official or the Director may issue a correction notice to the violator* directing the violator to comply with the applicable requirements of the County Code or a code." (Emphasis added). More importantly, BCC § 3-6-205(b)(1) expressly states that the Code Official "is not required to issue a correction notice before issuing a citation."

Finally, Steven argued at the hearing before Hearing Officer Wisnom in *Galasso I* that he had not received a correction notice. Slip op. at 2. We reviewed Hearing Officer

Wisnom's Findings of Fact and Conclusion of Law Final Order entered on November 3, 2004, and stated that

> appellant was a proper party because evidence showed that he signed letters and requested a hearing as Steven Galasso, owner of Lutherville Collision and Truck Center. **Thus, as appellant was "trading as Lutherville Collision and Truck Center [he enjoyed] a continuing relationship to the property as occupant and tenant . . . ." Wisnom further found that Deputy Zoning Commissioner, Timothy M. Kotroco's (Kotroco) order to "cease and desist immediately the painting and repair of automobiles" issued in November 2002 clearly stated what appellant should and should not do. Thus, the order carried "equal or more weight than a correction notice."**

Id. at 2-3 (emphasis added) (alteration in original). This Court further explained in *Galasso I* that, because appellant never appealed the November 3, 2004 order, the findings of fact and conclusions of law in that order became a final judgment. *Id.* at 15. Therefore, we hold that appellants are precluded from relitigating this issue under the doctrine of collateral estoppel. *See Galasso I*, slip op. at 2-3, 16.

F.

Error on the Site Map

Appellants argue that the property should have been classified as commercial in accordance with a zoning order from 1947. Thus appellants conclude that the County violated procedural due process by not following "the process required for passing a zoning ordinance." We disagree and explain.

In the case *sub judice*, the County issued a correction notice on January 9, 2002, which ultimately resulted in the 2002 Cease and Desist Order that prohibited appellants from operating a business that serviced and repaired passenger vehicles. When appellants continued to operate their business in violation of the 2002 Cease and Desist Order, Deputy Zoning Commissioner Kotroco filed a complaint in circuit court seeking injunctive relief against appellants to enforce the 2002 Cease and Desist Order. The result of that lawsuit was that appellants entered into the 2005 Consent Judgment, agreeing, *inter alia*, not to operate a body shop for the repair of passenger vehicles or to repair, paint, or perform mechanical work on passenger vehicles. Appellants could have included language in the 2005 Consent Judgment that specifically reserved their right to pursue the issue of whether the property was zoned commercial at a later date, but appellants did not do so. By entering into the 2005 Consent Judgment, appellants, for all practical purposes, conceded that the scope of the non-conforming use on the property was determined by the 2002 Cease and Desist Order, thus settling the zoning dispute. Therefore, we conclude that this issue is waived.

G.

Ex Post Facto

According to appellants, no legal authority existed under the BCC to terminate a non-conforming use until September 8, 2006, when Baltimore County Council Bill No. 105-06 became effective. Appellants assert that the action to terminate the non-conforming use on the property "was brought against [] [a]ppellants based upon allegations of violations which

occurred prior to the effective date of this Council Bill." Therefore, appellants conclude that the proceedings to terminate the non-conforming use on the property violated the prohibition against *ex post facto* laws. Appellants are mistaken.

Baltimore County Council Bill No. 105-06 added § 104.8 to the B.C.Z.R., which authorized the Zoning Commissioner to terminate a nonconforming use under certain conditions. The CBA, however, did not terminate the nonconforming use under B.C.Z.R. § 104.8, but rather terminated the nonconforming use under the authority of B.C.Z.R. § 104.1, which has been in existence since 1955. Therefore, appellants' argument has no merit. Even if the termination of the nonconforming use had been decided under B.C.Z.R. § 104.8, "the prohibition of *ex post facto* laws applies only to criminal cases." *Braverman v. Bar Ass'n of Balt. City*, 209 Md. 328, 348, *cert. denied*, 352 U.S. 830 (1956).

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY IN CITATION NO. 07-0546 AGAINST AUTOMOTIVE EMPORIUM, INC. IN CASE NO. 03-C-07-7572 REVERSED; ALL OTHER JUDGMENTS AFFIRMED; APPELLANTS TO PAY COSTS.

4/10/09

PETITION OF:	*	IN THE
STEVEN AND JOANNE GALASSO	*	CIRCUIT COURT
FOR JUDICIAL REVIEW OF THE DECISION OF:	*	OF
County Board of Appeals of Baltimore County	*	MARYLAND 13 G 5-2
IN THE MATTER OF:	*	FOR
THE APPLICATION OF STEVEN L. GALASSO, ET UX. LEGAL OWNERS; DIRECTOR, PDM AND BALTIMORE COUNTY, MD-PETITIONERS FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE E/S FALLS ROAD, 930' S OF C/L SEMINARY AVENUE 10905-10911 FALLS ROAD, 8TH ELECTION DISTRICT, 2ND ELECTION COUNCILMANIC DISTRICT, Case No.: 07-205 SPH	*	BALTIMORE COUNTY * Civil Action No. 03-C-07-12223

* * * * * * * * * * * * *

NOTICE OF APPEAL

Steven and Joanne Galasso, Petitioners, pursuant to Maryland Rule 8-201(a), hereby note an appeal to the Court of Special Appeals from the Order of The Honorable Mickey J. Norman docketed on March 11, 2009.

Respectfully Submitted,

Sharon L. Guida, Esquire
2746 Maryland Avenue
Baltimore, MD 21218
410-467-4409
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of April 2009, a copy of the foregoing Notice of Appeal was mailed first class, postage prepaid to John E. Beverungen, County Attorney, c/o James J. Nolan, Jr., Assistant County Attorney, 400 Washington Avenue, Towson, MD 21204, attorneys for Baltimore County.

Sharon L. Guida, Esquire

3/6/09

PETITION OF: STEVEN & JOANNE GALASSO 8509 Thornton Road Lutherville, MD 21093	*	IN THE
	*	CIRCUIT COURT
	*	FOR
SPECIALTY AUTOMOTIVE, LLC 10907 Falls Road Lutherville, MD 21093	*	BALTIMORE COUNTY
	*	
and		
	*	CIVIL ACTION No. 03-C-07-6825
AUTOMOTIVE EMPORIUM, INC. BY TRUSTEE: JOANNE GALASSO 8509 Thornton Road Lutherville, MD 21093	*	
	*	
FOR JUDICIAL REVIEW OF THE OPINION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MD 21204	*	
	*	
	*	
	*	
IN THE MATTER OF: STEVEN AND JOANNE GALASSO SPECIALTY AUTOMOTIVE, LLC and AUTOMOTIVE EMPORIUM, INC. Respondents/Appellants Case No. CBA-06-042	*	
	*	
	*	
CIVIL ACTION NOS.: 05-8457 A,B,E and F	*	
8th ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	*	

* * * * * * * * *

ORDER AFFIRMING DECISION OF BOARD OF APPEALS

The Court having read and considered the Petition for Judicial Review, the parties' Memoranda, the record before the Code Enforcement Hearing Officer, the

transcript of the proceedings before the Board of Appeals, and having heard argument from Counsel for the parties, it is

ORDERED that, for the reasons stated on the record in open Court on March 6, 2009, the May 29, 2007 Order of the Baltimore County Board of Appeals be and it is hereby affirmed.

Mickey J. Norman, Judge
Circuit Court for Baltimore County

Date: 3-6-09

Mail Copies to:

James J. Nolan, Jr., Esquire
Assistant County Attorney
400 Washington Avenue
Towson, Maryland 21204
Attorney for Respondent

True Copy Test
SUZANNE MENSH, Clerk
Per [signature]
Assistant Clerk

Sharon I. Guida, Esquire
2746 Maryland Avenue
Baltimore, Maryland 21218
Attorney for Petitioner

12/27/07

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY
*
PETITION OF:
STEVEN AND JOANNE GALASSO *
8509 Thornton Road
Lutherville, MD 21093 *

FOR JUDICIAL REVIEW OF THE OPINION * CIVIL ACTION
OF THE COUNTY BOARD OF APPEALS No. **03-C-07-12223**
OF BALTIMORE COUNTY *
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE *
TOWSON, MARYLAND 21204
*
IN THE MATTER OF:
STEVEN AND JOANNE GALASSO, *ET UX* *
- LEGAL OWNERS; DIRECTOR, PDM AND
BALTIMORE COUNTY, MD – PETITIONERS *
FOR SPECIAL HEARING ON PROPERTY
LOCATED ON THE E/S FALLS ROAD, 930' *
S OF C/L SEMINARY AVENUE
10905-10911 FALLS ROAD *

CASE NO.: 07-205-SPH *

8th ELECTION DISTRICT *
2nd COUNCILMANIC DISTRICT
* * * * * * * * * * * *

RECEIVED AND FILED
2007 DEC 27 PM 1:09
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE BOARD OF APPEALS OF BALTIMORE COUNTY:

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now comes the County Board of Appeals of Baltimore County and, in answer to the Petition for Judicial Review directed against it in this case, herewith transmits the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Department of Permits and Development Management and the Board of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD APPEALS AND DEPARTMENT OF PERMITS & LICENSES OF BALTIMORE COUNTY

Case No.: 07-205-SPH

Nov. 15, 2006	Notice of Hearing for case no. 07-205-SPH.
Nov. 15, 2006	Entry of Appearance by People's Counsel.
Nov. 23, 2006	Real Property Print Out for Stephen and Joanne Galasso.
Dec. 21, 2006	Certificate of Publication.
Dec. 21, 2006	Certificate of Posting.
Jan. 3, 2007	Petition for Special Hearing filed by Timothy Kotroco, Director of PDM, to determine whether to terminate the nonconforming service garage use at 10905-10911 Falls Road, due to continuing violations, and require the owner, tenant or entity having control of the land (Respondents) to revert the uses to one allowed under current RC 5 zoning classifications. (Print outs at very back of file showing non-conforming use and non-compliance with Hearing Officer's Order)
Jan. 4, 2007	Zoning Advisory Committee Comments.
January 9, 2007	Zoning Commissioner's Hearing. (Sign In Sheets for Petitioners, Protestants and County)
Feb. 5, 2007	Letter from James Nolan, Asst. Co. Attorney , to William J. Wiseman, III, Zoning Commissioner, advising him of the new set of citations that were recently issued by the Code Inspector.
Feb. 6, 2007	Letter from Donna M. King, Esq., attorney for the Galassos, to William J. Wiseman, III, Z.C., in response to James Nolan's letter of Feb. 5, 2007.
Feb. 8, 2007	Letter from Zoning Commissioner Wiseman to Ms. King and Mr. Nolan in response to the "new citations."
Feb. 23, 2007	Petitioner's Brief in Support of Petition for Special Hearing.
Feb. 23, 2007	Respondents' Motion to Dismiss.

Feb. 26, 2007	Plaintiff Steven and Joanne Galasso's Opposition to Defendant Baltimore County, Maryland's Motion to Dismiss or, in the Alternative, for Summary Judgment, under date of Feb. 26, 2007.
Mar. 13, 2007	Zoning Commissioner's Findings of Fact and Conclusion of Law.
Mar. 30, 2007	Petition for Appeal and Notice of Appeal filed by Donna M. B. King, Esquire, attorney for the Galassos.
Apr. 19 , 2007	Letter from the Director of PDM to Steven L. Galasso notifying him that an appeal has been filed.
Apr. 19, 2007	Payment for appeal fee.
Aug. 6, 2007	Letter of interest filed from People's Counsel.
Aug. 7, 2007	Board convened for Hearing.

Exhibits – Appellant

1.a. Building Permit No. 5050.- Dated Dec. 13, 195-46
1.b. Building Permit No. 47532 – Dated July 8, 1957
1.c. Letter/Bill of Service from Augustine J. Muller & Assoc.

Exhibits – County's

1. March 13, 2007 Findings of Fact and Order of Zoning Commissioner.
2. Section 500 & 104 of the BCZR
3. Office of Planning memo
4. Correction Notice
5. Petition for Special Hearing signed by Steve Galasso
6. Galasso Business Card (copy)
7. Newspaper Ad
8. Nov. 7, 2002 Findings of Fact and Conclusions of Law of Deputy Zoning Commissioner and Jan. 7, 2003 Order on Motion for Reconsideration.
9. Order – 1st Code Enforcement

10. Order – 2nd Code Enforcement
11. Order – 3rd Code Enforcement
12. Order – 4th Code Enforcement
13. May 29, 2007 Final Opinion and Order of the Board of Appeals re: 4th Code Enforcement.
14. Order – 5th Code Enforcement
15. June 14, 2007 Final Opinion and Order of Board of Appeals re: 5th Code Enforcement.
16. Contempt Finding
17. SDAT and Deed Information
18. Sept 8, 2005 Incident
19. List of Auto Repairs I.D.
20. Long 2004 CZMP Application
21. Missing
22. Advertisement for Zoning Re-Class.

Aug. 17, 2007 — Notice of Withdrawal of Attorney's Appearance filed by Donna M. B. King, Esq.

Aug. 30, 2007 — Baltimore County's Post Hearing Memorandum filed by John E. Beverungen, County Attorney and James J. Nolan, Jr., Assistant County Attorney.

Aug. 31, 2007 — Letter from Donna M. B. King, Esq. stating that her office has filed a Notice of Withdrawal of Attorney Appearance, along with Respondents' Closing Memorandum.

Sept. 25, 2007 — Board convened for public deliberation.

Sept. 28. 2007 — Board issued its Opinion and Order in the case. The Order reads as follows:

ORDERED, pursuant to §§ 500.6, 500.7 and 104.1 of the Baltimore County Zoning Regulations (BCZR) that the nonconforming use granted to 10905 – 10911 Falls Road in prior Case No. 02-419-SPH is hereby terminated and that the Petition for Special Hearing be and is hereby GRANTED; and it is further ORDERED that the Appellants/Respondents shall convert the property to a permitted use in compliance with R.C. 5 zoning classification by (1) removing the commercial signs installed on the property by Respondents subsequent to the decision in Case No.: 02-419-SPH; (2) close its vehicle

service and repair operation; (3) insure that any future business that may be operated on the representative of the Code /Enforcement Division of the Department of Permits and Development Management (PDM) reasonable access to any of the buildings on the subject properties to insure compliance with this Order.

Oct. 24, 2007	Petition for Judicial Review filed by Steven Galasso.
Oct. 29, 2007	Board received a copy of the Petition for Judicial Review with assigned case no., Case No. 03-C-07-12223.
Nov. 1, 2007	Certificate of Notice filed with the Circuit Court for Baltimore County and copies mailed to pertinent parties.
Nov. 7, 2007	Response to Petition filed by James J. Nolan, Jr., Assistant County Attorney.
Dec. 27, 2007	Transcript filed.
Dec. 27, 2007	Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered before the Board.

Respectfully submitted,

Linda B. Fliegel

Linda B. Fliegel, Legal Secretary
County Board of Appeals of Baltimore County
400 Washington Avenue, Room 49
Towson, MD 21204 (410) 887-3180

c: John E. Beverungen, County Attorney
James J. Nolan, Jr., Asst. Co. Attorney
Steven and Joanne Galasso

11/6/07

PETITION OF:	*	**IN THE**
STEVEN AND JOANNE GALASSO **8509 Thornton Road** **Lutherville, MD 21093**	*	**CIRCUIT COURT**
	*	**OF**
JUDICIAL REVIEW OF THE DECISION OF:	*	**MARYLAND**
	*	**FOR**
County Board of Appeals Of Baltimore County **Old Courthouse, Room 49** **400 Washington Avenue** **Towson, MD 21204** **410-887-3180**	*	**BALTIMORE COUNTY**
	*	**CIVIL ACTION NO.**
	*	**03-C-07-12223**
IN THE MATTER OF:	*	
THE APPLICATION OF STEVEN L. GALASSO, ET UX.-LEGAL OWNERS; DIRECTOR, PDM AND BALTIMORE COUNTY, MD-PETITIONERS FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE E/S FALLS ROAD, 930' S OF C/L SEMINARY AVENUE 10905 – 10911 FALLS ROAD 8TH ELECTION DISTRICT 2ND ELECTION COUNCILMANIC DISTRICT Case No.: 07-205-SPH	*	

* * * * * * * * *

RESPONSE TO PETITION

Baltimore County Maryland, by undersigned counsel, pursuant to Rule 7-204(a), hereby gives notice of its intent to participate in this matter on its own behalf and on behalf of all County agencies and personnel involved in this action.

Respectfully submitted,

JOHN E. BEVERUNGEN
County Attorney

JAMES J. NOLAN, JR.
Assistant County Attorney
400 Washington Avenue
Towson, MD 21204
410-887-4420
Attorneys for Baltimore County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of November 2007, the Response to Petition was sent via First Class U.S. Mail, postage prepaid, to:

Steven L. Galasso and JoAnne Galasso
8509 Thornton Road
Lutherville, Maryland 21093

Baltimore County Board of Appeals
Old Courthouse – Room 49
400 Washington Avenue
Towson, Maryland 21204

James J. Nolan, Jr.

11/1/07

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY
*
PETITION OF:
STEVEN AND JOANNE GALASSO *
8509 Thornton Road
Lutherville, MD 21093 *

FOR JUDICIAL REVIEW OF THE OPINION * CIVIL ACTION
OF THE COUNTY BOARD OF APPEALS No. **03-C-07-12223**
OF BALTIMORE COUNTY *
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE *
TOWSON, MARYLAND 21204
*
IN THE MATTER OF:
STEVEN AND JOANNE GALASSO, *ET UX* *
- LEGAL OWNERS; DIRECTOR, PDM AND
BALTIMORE COUNTY, MD – PETITIONERS *
FOR SPECIAL HEARING ON PROPERTY
LOCATED ON THE E/S FALLS ROAD, 930' *
S OF C/L SEMINARY AVENUE
10905-10911 FALLS ROAD *

CASE NO.: 07-205-SPH *

8th ELECTION DISTRICT *
2nd COUNCILMANIC DISTRICT

* * * * * * * * * * * *

RECEIVED AND FILED
2007 NOV -1 PM 12: 33
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the County Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

STEVEN GALASSO & JOANNE GALASSO
8509 Thornton Road
Lutherville, MD 21093

JOHN E. BEVERUNGEN,
COUNTY ATTORNEY
and
JAMES J. NOLAN, JR., ESQUIRE
ASST. COUNTY ATTORNEY
BALTIMORE COUNTY OFFICE OF LAW
OLD COURTHOUSE – 2ND FLOOR
400 WASHINGTON AVENUE
TOWSON, MD 21204

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

Linda B. Fliegel, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

I HEREBY CERTIFY that on this _____ day of November, 2007, a copy of the foregoing Certificate of Notice has been mailed To: STEVEN GALASSO & JOANNE GALASSO, 8509 Thornton Road, Lutherville, MD 21093, JOHN E. BEVERUNGEN, COUNTY ATTORNEY *and* JAMES NOLAN, ASST. CO. ATTORNEY, County Attorney's Office, 400 Washington Avenue , Old Courthouse – 2nd Floor, Towson, MD 21204.

Linda B. Fliegel, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

November 1, 2007

Mr. & Mrs. Steven Galasso
8509 Thornton Road
Lutherville, MD 21093

RE: Circuit Court Civil Action No. 03-C-07-12223
Petition for Judicial Review
Steven & Jaonne Galasso,
Board of Appeals Case No.: 07-205-SPH

Dear Mr. & Mrs. Galasso:

In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review, which you have taken to the Circuit Court for Baltimore County in the above-entitled matter, within sixty days. The cost of the transcript of the record must be paid by you and must be paid in time to transmit the same to the Circuit Court within the sixty day timeframe, as stated in the Maryland Rules.

The Court Reporter that you need to contact to obtain the transcript and make arrangement for payment is as follows:

CAROLYN PEATT
TELEPHONE: 410- 486-8209
HEARING DATE(S): August 7, 2007

This office has also notified Ms. Peatt that a transcript on the above captioned matter is due by December 26, 2007, for filing in the Circuit Court. A copy of your Petition, which includes your telephone number, has been provided to the Court Reporter, which enables her to contact you for payment provisions.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda B. Fliegel
Legal Secretary

/lbf
Enclosure
c: Carolyn Peatt, Court Reporter
John Beverungen, County Atty.
James Nolan, Asst. Co. Atty.

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

November 1, 2007

John E. Beverungen,
County Attorney
Old Courthouse – 2nd Floor
400 Washington Avenue
Towson, MD 21204

James Nolan,
Asst. County Attorney
Old Courthouse – 2nd Floor
400 Washington Avenue
Towson, MD 21204

RE: Circuit Court Civil Action No. 03-C-07-12223
Petition for Judicial Review
Steven & Jaonne Galasso,
Board of Appeals Case No.: 07-205-SPH

Dear Counsel:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on October 24, 2007 in the Circuit Court for Baltimore County, from the decision of the County Board of Appeals rendered in the above matter. The Board received a copy of the Petition for Judicial Review from the Circuit Court on October 29, 2007. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, **must be filed under Civil Action No. 3-C-07-12223**

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda B. Fliegel
Legal Secretary

/lbf
Enclosure

c: Steven & Joanne Galasso
Paul G. Miller
Robert Williams
Carroll E. Long & Wilham E. Long
Specialty Automotive, LLC/Debbie Jones, R/A
Jack Dillon

Office of People's Counsel
William J. Wiseman, III/Zoning Commissioner
Timothy M. Kotroco, Dir./PDM
Mike Mohler, Dep. Dir./PDM
Pat Keller/Dir. of Planning
Raymond S. Wisnom, Code Enf./H.O.
Jeffrey Radcliffe/Jerry Chen

10/24/07

PETITION OF:	*	**IN THE**
STEVEN AND JOANNE GALASSO **8509 Thornton Road** **Lutherville, MD 21093**	*	**CIRCUIT COURT**
	*	**OF**
JUDICIAL REVIEW OF THE DECISION OF:	*	**MARYLAND**
	*	**FOR**
County Board of Appeals of Baltimore County **Old Courthouse, Room 49** **400 Washington Avenue** **Towson, MD 21204** **410-887-3180**	*	**BALTIMORE COUNTY**
	*	**CIVIL ACTION NO.:**
	*	C-07-12223
IN THE MATTER OF:	*	
THE APPLICATION OF STEVEN L. GALASSO, ET UX.-LEGAL OWNERS; DIRECTOR, PDM AND BALTIMORE COUNTY, MD-PETITIONERS FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE E/S FALLS ROAD, 930' S OF C/L SEMINARY AVENUE **10905 -10911 FALLS ROAD** **8TH ELECTION DISTRICT** **2ND COUNCILMANIC DISTRICT** **Case No.: 07-205-SPH**	*	

RECEIVED
OCT 2 9 2007
BALTIMORE COUNTY
BOARD OF APPEALS

* * * * * * * * * * *

PETITION FOR JUDICIAL REVIEW

Steven and Joanne Galasso, Appellants, who participated in the proceedings before the County Board of Appeals of Baltimore County, in accordance with Maryland Rule 7-202, hereby requests judicial review of the September 28, 2007 Decision of the County Board of Appeals of Baltimore County in the above-captioned matter, a copy of which is attached hereto as Exhibit A.

RECEIVED AND FILED
2007 OCT 24 PM 1:55
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Respectfully submitted,

Steven Galasso
Joanne Galasso

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 24 day of October, 2007, a copy of the foregoing Petition for Judicial Review was mailed, postage prepaid, to the following:

James J. Nolan Jr., Esquire
Assistant County Attorney
for Baltimore County
Baltimore County Office of Law
400 Washington Ave.
Towson, MD 21204

County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

Steven Galasso

9/28/07

IN THE MATTER OF THE APPLICATION OF STEVEN L. GALASSO, ET UX –LEGAL OWNERS; DIRECTOR, PDM AND BALTIMORE COUNTY, MD – PETITIONERS FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE E/S FALLS ROAD, 930' S OF C/L SEMINARY AVENUE 10905-10911 FALLS ROAD 8TH ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	* BEFORE THE * COUNTY BOARD OF APPEALS * OF * BALTIMORE COUNTY * Case No. 07-205-SPH *

* * * * * * * * *

OPINION

Baltimore County, Maryland, and Timothy M. Kotroco, Director of the Baltimore County Department of Permits and Development Management (PDM) filed a Petition for Special Hearing pursuant to §§ 104.1, 104.8, 500.6 and 500.7 of the Baltimore County Zoning Regulations (BCZR) to terminate the nonconforming use at 10905-10911 Falls Road. On March 13, 2007, the Zoning Commissioner ordered the termination of the nonconforming use pursuant to §§ 500.6, 500.7 and 104.1 of the BCZR. The Galassos and their other entities filed an appeal to the Board of Appeals. Before the Board, Baltimore County orally amended its original Petition for Special Hearing to request relief under § 104.1 of the BCZR, and in accordance with its request for relief submitted in its Brief in support of the Petition. A hearing was conducted before the Board on August 7, 2007. Briefs were submitted and a public deliberation was held on September 25, 2007. Baltimore County was represented by James J. Nolan, Jr., Assistant County Attorney. The Galassos were represented by Donna M. B. King, Esquire.[1]

Background

County Testimony and Evidence

Baltimore County submitted a number of exhibits in support of its position. In addition,

[1] Subsequent to the hearing, the Board was notified by Notice of Withdrawal of Attorney Appearance filed on August 20, 2007, that Ms. King had withdrawn her appearance on behalf of the Galassos. However, she submitted a Brief in support of her position on August 31, 2007.

it submitted the testimony of Lynn Lanhan, Raymond Wisnom, Robert Williams, and Paul Miller.

Ms. Lanham stated that she was a Division Chief in the Baltimore County Office of Planning and testified regarding a November 20, 2006 memorandum from the Director of the Office of Planning to Timothy M. Kotroco, Director of PDM, regarding the termination of the nonconforming use. She stated that there was well-documented information establishing that the nonconforming use for the repair of classic cars and trucks had ceased, and that it was well documented that the use of the property for body work and repair of passenger automobile cars and trucks was in violation of the zoning for the particular property. Accordingly, the Office of Planning recommended that the nonconforming use be terminated and the property be converted to a legally permitted use in accordance with § 104.8 of the BCZR.

Raymond Wisnom, Code Enforcement Hearing Officer, testified about five code enforcement proceedings that were brought against the Galassos and various entities controlled by them. He testified that the original correction notice against the property was issued on January 9, 2002. As a result of that correction notice, Steven Galasso petitioned for a special hearing, together with the then-owners Carroll Long and William Long.

The Deputy Zoning Commissioner (DZC) at that time issued an Order dated November 7, 2002 wherein the request for Lutherville Collision and Truck Center, the name of the company utilized by the Galassos and Longs at the time, for the painting and repair of automobiles was denied.

Upon reconsideration, the Deputy Zoning Commissioner clarified his Order to allow the painting of large trucks and specialty vehicles such as ambulances, fire suppression equipment, large government and military vehicles, tractor cabs and other such similar vehicles to include the painting and repair of classic and antique automobiles only. These activities were to be

performed by the Valley Services Company. The DZC ordered that Mr. Galasso's use of the property for the painting and repair of passenger vehicles must "cease and desist immediately." Mr. Wisnom testified that, notwithstanding the Order to cease and desist immediately, Mr. Galasso and his various entities continued to paint and repair passenger vehicles from the date of the correction notice up to the present time. He testified that he had conducted five enforcement proceedings and heard from numerous witnesses and received numerous photographs and logs to document the fact that the passenger vehicle repair operation continued. Wisnom had entered multiple orders in each of the five enforcement proceedings. The Galassos, Specialty Automotive, LLC, and Automotive Emporium, Inc., appealed Mr. Wisnom's fourth code enforcement order to the Board of Appeals.

On May 29, 2007, this Board entered its Opinion and Order affirming Wisnom's decision with modifications as to the four penalties imposed, finding that "there is a preponderance of evidence in the file that Appellants have continued to violate the 2002 Order by working on prohibited passenger vehicles." In addition, there was an appeal to the Board of Appeals from the Order in the fifth code enforcement proceeding. The Board affirmed that decision of Mr. Wisnom and ordered civil penalties in the amount of $22,600.00 against Steven and JoAnne Galasso, Automotive Emporium, Inc., and Specialty Automotive, LLC. The Board found that there was a preponderance of evidence in the file that the Appellants had continued to violate the 2002 Order. Mr. Wisnom also cited the testimony of William Long on April 29, 2005, wherein Mr. Long admitted "to continuing to repair and paint ordinary passenger vehicles as a condition of continuing to be a viable enterprise." Long also stated that "the painting and modification of specialty vehicles, such as ambulances, fire trucks, military vehicles, tractor cabs, classic and antique vehicles has diminished to a point that the business cannot be sustained without resorting to performing repairs and painting of ordinary vehicles and light trucks."

Wisnom also pointed to the testimony of Inspectors Chen and Radcliffe concerning Mr. Galasso threatening them with a shotgun on March 8, 2007, the day prior to the fifth code enforcement hearing on March 9, 2007. According to the testimony of Chen and Radcliffe, Galasso brandished a shotgun and loaded two shells into it and shucked one shell into the firing chamber, profanely threatening Mr. Chen and Mr. Radcliffe. Mr. Wisnom inferred from these and other actions of Galasso that he had something to hide.

The County also submitted a Consent Judgment executed by the attorney for Steven Galasso, trading as Lutherville Collision and Truck Center and Automotive Emporium, Inc., dated July 8, 2005, in which the Defendants were enjoined "from engaging in any of the following activities at 10905 or 10911 Falls Road, Lutherville, MD 21093: (1) operating a service garage or body shop for the repair of passenger vehicles; (2) repairing, painting or performing mechanical work on passenger vehicles; and (3) using 10905 or 10911 Falls Road for a drop off or transfer point for passenger vehicles to be repaired or painted elsewhere." The Automotive Emporium was to erect a sign at or near the driveway of 10904 Falls Road informing customers that they may not leave their vehicles at that location. The County also submitted an Order dated April 17, 2006 by the Circuit Court for Baltimore County finding the Defendants, Steven Galasso and Automotive Emporium, Inc., in contempt of the Order and fining them $14,600.00. Steven Galasso and Automotive Emporium, Inc., were found jointly and severally liable for payment of the fine.

In addition, the County submitted a copy of an agreement between Nationwide Motor Sales Corporation and Automotive Emporium, Inc., and Valley Services, Inc., in which Nationwide agreed to "exclusively refer to Automotive beginning on November 1, 2003 and continuing as long as this agreement or any extension thereof is in effect all vehicles that require body and paint service." The agreement stated that Automotive does and will operate its body

and paint shop at 10905-11 Falls Road, Brooklandville, MD and "will maintain at that location facilities that are capable of performing first-class body and paint repairs to vehicles referred by Nationwide, including the storage of said vehicles." The agreement contemplated 5 years of work.

In addition, the County presented the testimony of Robert Williams, a neighbor of the property next door to 10905-10911 Falls Road, and Mr. Paul Miller, who maintains an office in Greenspring Station and passes by the property everyday. Both of these gentlemen testified that the property has been used to repair and paint passenger vehicles in violation of the Zoning Commissioner's Order.

Appellant's Evidence

Appellants produced Carroll Long and William Long, the prior owners of the property, who testified with respect to the attempt to correct what they perceived as a zoning error to the property. Cross-examination produced testimony that William Edward Long had applied for a reclassification of the zoning from R.C. 5 to B.M. (commercial) in the 2004 Comprehensive Zoning Map Process. The application was denied by the Baltimore County Council, and the Galassos never filed a petition for cycle zoning as permitted by the County Code. The Board previously addressed this issue in its June 14, 2007 Order and found that the argument had no merit.

Appellants also produced Debbie Jones who testified that she had been the manager of the operation on Falls Road for 5 years. Jones testified that she had worked at the property for 5 years and at no time, when she was there, had ordinary passenger vehicles been repaired on the property. Jones' testimony was not considered as credible in view of the many photographs that were submitted by the County taken by Mr. Williams and others showing the various automobiles that were stored or sitting on the property waiting for repairs. Ms. Jones stated that

she was no longer working at the office and that she had moved to the Randallstown location.

Mr. Galasso testified on his own behalf and admitted knowledge of the Deputy Zoning Commissioner's Order and admitted that he had also entered into an agreement with Nationwide Motor Sales Corporation to perform all their passenger vehicle body and painting work at the subject property. When questioned about the fact that he had sued the manufacture of a paint booth in the Circuit Court for Baltimore County alleging that, due to the defective paint booth, he lost $50,000.00 a month for 5 years, he invoked his Fifth Amendment privileges against self-incrimination.

Mr. Galasso also was very evasive in his answers, stating that he was unemployed when asked if he was employed.

In addition, in her Brief, Ms. King argued several legal points. First, she argued that the action should be dismissed because BCZR 104.8 violated the constitutional right of due process prohibiting ex post facto laws and the right against property takings. The second basis was that the action should be dismissed on the basis that § 104.8 is a penalty clause beyond the authority of the zoning regulations. The argument was made that § 104.8 was not authorized by the State of Maryland enabling statute and, therefore, the action should be dismissed. Fourthly, she felt that the action should be dismissed because Petitioner Kotroco's evidence consisted of citations imposed upon Respondents as the result of hearings and procedures in violation of the Constitution and Maryland Declaration of Rights.

Decision

This Board is well aware of the number of cases involving the Appellants in this matter, and the various entities controlled by Steven Galasso and his wife, which have been operating unlawfully under the zoning laws of Baltimore County. Mr. Galasso is well aware of the decision of the Deputy Zoning Commissioner that prohibited him from operating an auto vehicle

repair shop in a resource conservation zone (R.C. 5). The issue with respect to the zoning of the property as being commercial has been litigated, and the Galassos' position has been found to be invalid. Mr. William Long moved to change the zoning in the 2004 Comprehensive Zoning Map Process, but the County Council did not change the zoning. It is up to the County Council to determine the zoning for that property, and they have given due consideration and found that the property should be zoned R.C. 5.

Code Enforcement hearings have been initiated against the Respondents on five different occasions. In addition, the Respondent has agreed to a Consent Order in the Circuit Court for Baltimore County and has violated that Consent Order and has been fined $14,600.00. All of this apparently means nothing to Mr. Galasso, who continues to flaunt the orders of the Zoning Commissioner, this Board, and the Circuit Court for Baltimore County.

The Board does not credit the testimony of Debbie Jones or Steven Galasso with respect to the testimony that they were not painting or repairing passenger automobiles at the subject site. In addition, the Board does not feel that it is necessary to implement § 104.8 of the BCZR since the Board feels that the nonconforming use has been changed or expanded. Several cases have held that where a nonconforming use has changed or expanded, the nonconforming use is terminated. See *Prince George's County v. Gardner*, 293 Md. 266-268; *Canada's Tavern v. Town of Glen Echo*, 260 Md. 206.

In addition, the Board feels that the argument that Hearing Officer Wisnom's findings were procedurally irregular and should be held to be invalid because he assisted counsel for the County during hearings before the Zoning Commissioner and this Board has no merit. As stated by the Zoning Commissioner, Respondents were in effect claiming that the County officials acted in an arbitrary and capricious manner in prosecuting these violations and imposing fines against Respondents, but, "in the absence of evidence to the contrary, administrative

officer's...[are] presumed to have properly performed their duties and to have acted regularly and in a lawful manner." *Maryland Securities Commissioner v. US Securities Corp.*, 122 Md.App. 574, 588 (1988). Therefore, with respect to the constitutional issues raised by the Respondents, the Board finds that Respondents were given a fair and impartial hearing on the issues and that the penalties and fines were warranted in this matter. The Board notes that the Respondents have filed an action in the United States District Court for the District of Maryland, alleging constitutional issues and that the Court refused to issue a cease and desist order prior to the hearing before the Zoning Commissioner.

The Board bases its findings on the testimony of William Long that it was necessary for them to engage in repairs of passenger automobiles in order to sustain their business, the fact that numerous photos were taken by various individuals showing passenger automobiles needing repairs on the premises of the Respondents, the agreement between Nationwide Automotive and the Respondents to perform automobile repairs at the subject site for a 5-year period beginning in 2003, and the fact that the repairs were being made in violation of the Deputy Zoning Commissioner's Order. This expanded the nonconforming use. Thus, this Board finds that Steven Galasso, his wife, and the various business entities are in violation of the zoning regulations by expanding the nonconforming use and that it should be terminated.

The Board does not feel that it has the authority to order the razing of the existing service building at 10905 Falls Road.

ORDER

THEREFORE, IT IS THIS 28th day of September, 2007 by the County Board of Appeals of Baltimore County

ORDERED, pursuant to §§ 500.6, 500.7 and 104.1 of the Baltimore County Zoning Regulations (BCZR) that the nonconforming use granted to 10905-10911 Falls Road in prior Case

No. 02-419-SPH is hereby terminated and that the Petition for Special Hearing be and is hereby **GRANTED**; and it is further

ORDERED that the Appellants /Respondents shall convert the property to a permitted use in compliance with R.C. 5 zoning classification by (1) removing the commercial signs installed on the property by Respondents subsequent to the decision in Case No. 02-419-SPH; (2) close its vehicle service and repair operation; (3) insure that any future business that may be operated on the property is in compliance with the R.C. 5 zoning classification; (4) Respondents shall permit a representative of the Code Enforcement Division of the Department of Permits and Development Management (PDM) reasonable access to any of the buildings on the subject properties to insure compliance with this Order.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Margaret Brassil, Ph.D., Chairperson

Lawrence S. Wescott

Wendell H. Grier

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

September 28, 2007

Mr. and Mrs. Steven Galasso
8509 Thornton Road
Lutherville, MD 21093

RE: *In the Matter of: Director, PDM and Baltimore County, Maryland - Petitioners; Steven Galasso, et ux –Legal Owners*
Case No. 07-205-SPH

Dear Mr. and Mrs. Galasso:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules of Procedure*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all subsequent Petitions for Judicial Review filed from this decision should be noted under the same civil action number as the first Petition.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C. Bianco
Administrator

Enclosure

c: Donna M. B. King, Esquire
James J. Nolan, Jr., Assistant County Attorney
John E. Beverungen, County Attorney
Carroll Edward Long and Wilham Edward Long
Specialty Automotive, LLC /Debbie Jones, RA
Timothy M. Kotroco, Director
Department of Permits & Dev. Management
Jack Dillon
Paul G. Miller
Robert Williams
Office of People's Counsel
Pat Keller, Planning Director
William J. Wiseman III, Zoning Commissioner
Jeffrey Radcliffe
Raymond S. Wisnom, Code Enf. Hearing Officer
Jerry Chen

CASE #: 07-205-SPH

IN THE MATTER OF: DIRECTOR, PDM, BALTIMORE COUNTY, MARYLAND – Petitioner; **STEVEN L. GALASSO, ET UX - Legal Owners;** 10905-10911 Falls Road 8th E; 2nd C

SPH –Filed by Timothy Kotroco, Director of PDM, to determine whether to terminate the nonconforming service garage use at 10905-10911 Falls Road, due to continuing violations, and require the owner, tenant or entity having control of the land (Respondents) to revert the uses to one allowed under current RC 5 zoning classification.

3/13/2007 – Decision of Zoning Commissioner – Baltimore County's Petition for Special Hearing GRANTED; nonconforming use terminated; property to be converted to a permitted use in compliance with RC 5 zoning classification.

5/16/07 – Notice of Assignment sent to the following; hearing assigned for Wednesday, June 20, 2007 at 10 a.m.:

Donna M.B. King, Esquire
Steven and JoAnne Galasso
Carroll Edward Long and Wilham Edward Long
Specialty Automotive, LLC /Debbie Jones, RA
James J. Nolan, Jr., Assistant County Attorney
Timothy M. Kotroco, Director
Department of Permits & Dev. Management
Jack Dillon
Paul G. Miller
Robert Williams
Office of People's Counsel
Pat Keller, Planning Director
William J. Wiseman III, Zoning Commissioner
Jeffrey Radcliffe
Jerry Chen
Raymond S. Wisnom, Code Enf. Hearing Officer
John E. Beverungen, County Attorney

5/25/07 – Request for postponement filed by Donna M. B. King, counsel for Legal Owners; she will be out of town for family matters on the assigned date of hearing.

5/31/07 – Notice of PP and Reassignment sent to parties; case reassigned to Tuesday; August 7, 2007 at 10 a.m.

8/06/07 – Letter from People's Counsel – registering interest in this case; that office's position; and that, since both the County and the Property Owners are represented by counsel, that office will not be participating in the scheduled hearing on 8/07/07.

8/07/07 – Board convened for hearing (Brassil, Wescott, Grier); concluded hearing this date; closing memos to be filed 8/31/07; public deliberation to be assigned.

8/14/07 – Notice of Deliberation sent to parties; public deliberation assigned for Tuesday, September 25, 2007 at 9:00 a.m. FYI copy to 5-3-4

8/24/07 – Letter from Donna M.B. King, Esquire – withdrawing appearance in Case No. 07-205-SPH.

8/30/07 – Baltimore County's Post-Hearing Memorandum filed by James J. Nolan, Assistant County Attorney.

8/31/07 – Respondent's Closing Memorandum filed by Donna M.B. King, Esquire (with cover letter noting that, while Notice of Withdrawal of Attorney Appearance was filed on 8/20/07, Ms. King was filing this Memo to ensure that a closing memorandum is filed on behalf of Respondents in this matter).

9/06/07 –Acknowledgement to Ms. King that both her withdrawal and her Memo were received by this Board. Copies to be provided to 5-3-4.

8/31/07

IN THE MATTER OF:	* **BOARD OF APPEALS**
DIRECTOR, PDM,	
BALTIMORE COUNTY, MD	* **OF**
PETITIONER	* **BALTIMORE COUNTY**
STEVEN L. GALASSO, et ux,	*
Legal Owners	
10905-10911 Falls Road	* **CASE NO. 07-205-SPH**
Lutherville, MD 21093	
8th Election District	*
2nd Councilmanic District	
RC 5 Zoning	

* * * * * * * * *

BALTIMORE COUNTY'S POST HEARING MEMORANDUM

Baltimore County, Maryland and Timothy M. Kotroco, Director of the Baltimore County Permits and Development Management, by undersigned counsel, respectfully submit this Memorandum following the hearing on August 7, 2007 before the Baltimore County Board of Appeals.

The Petition for Special Hearing

Pursuant to Sections 500.6 and 500.7 of the Baltimore County Zoning Regulations (BCZR), the original Petition for Special Hearing sought the termination of a non-conforming use at 10905-10911 Falls Road under Section 104.8 of the BCZR. Following a hearing conducted by the Zoning Commissioner on January 9, 2007, the parties submitted Briefs. Based on the hearing evidence, the Petitioner's Brief in Support of Petition for Special Hearing requested the Zoning Commissioner to terminate the non-conforming use pursuant to both Sections 104.1 and 104.8 of the BCZR.

On March 13, 2007 the Zoning Commissioner ordered the termination of the non-conforming use pursuant to Sections 500.6, 500.7 and 104.1 of the BCZR. The Galasso's and their other entities filed an appeal to the Board of Appeals. At the hearing, Baltimore County orally amended its original Petition for Special Hearing to request relief under Section 104.1 of the Baltimore County Zoning Regulations in accordance with its request for relief submitted in its Brief in Support of Petition for Special Hearing. Baltimore County offered, and the Board received into evidence 19 Exhibits, (County Exhibits 1 to 17 and 20-21). Exhibits 18, 19 and 22 were marked for identification only. The parties submitted the following testimony.

County Witnesses

Lynn Lanham, a Division Chief in the Baltimore County Office of Planning, testified about a November 20, 2006 Memorandum from the Director of the Office of Planning to Timothy M. Kotroco, Director of PDM, regarding the termination of the non-conforming use. The Memorandum stated the opinion of the Office of Planning that there was an abundance of well-documented information establishing that the non-conforming use for the repair of classic cars and trucks had ceased. The Memo further stated that the Courts have established that the use of the property for bodywork and repair of passenger automobile cars and trucks is a zoning violation. Accordingly, the Office of Planning recommended that the non-conforming use be terminated and that the property be converted to a legally permitted R.C.5 use. (County Exhibit 3A-3C).

Raymond S. Wisnom, Jr., Code Enforcement Hearing Officer, testified about the five Code Enforcement proceedings which were brought against the Galassos and various

entities controlled by them. The original Correction Notice was issued on January 9, 2002 (County Exhibit 4, at p.9-10). As a result, Steve Galasso petitioned for a special hearing together with the then-owners, Carroll and William Long (County Exhibit 5, at p.11-12). The Deputy Zoning Commissioner issued Findings of Fact and Conclusions of Law and an Order on Motion for Reconsideration recognizing the non-conforming use for the painting and modification of large trucks and specialty vehicles such as ambulances, fire suppression equipment, large government and military vehicles, tractor cabs and other such similar vehicles, to include the painting and repair of classic and antique automobiles only. (County Exhibit 8, at p.30). The Deputy Zoning Commissioner ordered that Mr. Galasso's use of the property for the painting and repair of passenger vehicles must "cease and desist immediately." (County Exhibit 8, at p.27). He further clarified that his Order on Motion for Reconsideration was to "in no way to be interpreted to permit the repair and painting of the average automobile by anyone on the property." (County Exhibit 8, at p.30).

Mr. Wisnom testified that, notwithstanding the Order to cease and desist immediately, Mr. Galasso and his various entities continued to paint and repair passenger vehicles from the date of the Correction Notice up to the present time. Mr. Wisnom testified to the five (5) code enforcement proceedings that he conducted. He heard from numerous witnesses and received numerous photographs and logs that were submitted to document the fact that the passenger vehicle operation continued unabated. Mr. Wisnom entered multiple Orders in each of the five code enforcement proceedings. (County Exhibits 9-12, at p.32-82, County Exhibit 14, p. 90-96).

The Galassos, Specialty Automotive, LLC and Automotive Emporium, Inc. appealed Mr. Wisnom's 4th Code Enforcement Order to this Board. On May 29, 2007, this Board entered its Final Opinion and Order affirming Mr. Wisnom's decision with modification as to the four penalties imposed (County Exhibit 13, at p.83-89), finding that "there is a preponderance of evidence in the file that Appellants have continued to violate the 2002 Order by working on prohibited passenger vehicles." (County Exhibit 13, at p.88).

There was also an appeal to the Board of Appeals from the Orders in the 5th code enforcement proceeding. With respect to that appeal, this Board affirmed the decision of Mr. Wisnom and ordered civil penalties in the amount of $22,600.00 against Steven and Joanne Galasso, Automotive Emporium, Inc. and Specialty Automotive, LLC (County Exhibit 15, at P.91-103), finding once again that there "is a preponderance of evidence in the file that Appellants have continued to violate the 2002 Order by working on prohibited passenger vehicles" (County Exhibit 15, at p.102).

Mr. Wisnom testified that based upon the five hearings he conducted and the evidence and testimony which he received, it was clear that the use of the property had changed and that it had become a passenger vehicle body shop in violation of the Deputy Zoning Commissioner's Order and the BCZR. In addition to all of the photographs, logs and other documentary evidence, Mr. Wisnom pointed to the testimony of William Long on April 29, 2005 wherein Long admitted "to continuing to repair and paint ordinary passenger vehicles as a condition of continuing to be a viable enterprise." (County Exhibit 10, at p.46). He also stated that "the painting and modification of specialty

vehicles such as ambulances, fire trucks, military vehicles, tractor cabs, classic and antique vehicles has diminished to a point that the business cannot be sustained without resorting to performing repairs and painting of ordinary vehicles and light trucks." (County Exhibit 11, at p. 68, County Exhibit 10, at p.46).

In addition to testifying that there had been a change from the permissible non-conforming use to the impermissible use a passenger vehicle body shop, Mr. Wisnom testified that he had determined, after five separate code enforcement hearings under Article 3, Title 6 of the Baltimore County Code, that the owner, tenant or entity having control of the land or use is in violation of the County Code, as defined in Article 3, and that the violation is continuing; and that the owner, tenant or entity having control of the land or use is in violation of the County Code for the same offense on multiple occasions. Thus, Mr. Wisnom's testimony supports the termination of the non-conforming use based upon both Section 104.1 and 104.8 of the BCZR.

Mr. Wisnom also pointed to the testimony of Inspectors Chen and Radcliffe concerning Mr. Galasso threatening them with a shotgun on March 8, 2007, the day prior to the 5th Code Enforcement Hearing on March 9, 2007. Mr. Galasso brandished a shotgun and loaded two shells into it, shucked one shell to the firing chamber and profanely threatened Mr. Chen and Mr. Radcliffe. In addition, he directed racial epithets against them. (County Exhibit 14, at p. 94). Mr. Wisnom inferred from these and other actions of Galasso that he had something to hide. (County Exhibit 14, at p.94).

In his written finding, he stated:

> Mr. Williams (the next door neighbor) and Mr. Wasilewski (the former Inspector) each testified to violent encounters with Mr. Galasso. Mr. Galasso is noted to be on site almost every day yet when asked the names of the employees at the Falls Road site, his answer was that he did not know the names of the two employees. I do believe that Mr. Galasso stated: "Fuck the County" and that is still doing what he wants to do on the property even though he may or may not be connected to Automotive Emporium, Incorporated. He is connected to the property by his ever-present presence and control of the Falls Road site.

(County Exhibit 11, at p. 67).

Robert Williams, who either leased or owned the property next door to 10905-10911, since 1982, testified, that after Mr. Galasso arrived on the scene in the Fall of 2001, the use of the property changed to a passenger vehicle body shop. That use continued from the Fall of 2001 up to the present time.

Paul Miller testified that he maintains an office at Greenspring Station and commutes daily on Falls Road past 10905-10911 Falls Road. He stated his observation that since the Fall of 2001, the property was used for a passenger vehicle body shop.

Appellant's Witnesses

Carroll and William Long, the prior owners of the property both testified, in an apparent attempt to support Galasso's position that there was a zoning map error entitling Galasso to operate a passenger vehicle body shop. The Longs' testimony was confusing and is completely undercut by the 2004 Comprehensive Zoning Map Process Application of William Edward Long for a reclassification of the zoning from R.C.5 to BM

commercial. (County Exhibit 20 at p. 209-222. That application was denied by the Baltimore County Council. In addition, there is no dispute that the Galassos have never filed a petition for cycle zoning as permitted in Baltimore County Code Sections 32-3-501 through 32-3-517.

Moreover, the Board already addressed and disposed of this issue in its June 14, 2007 Order:

> In their Amended Petition for Appeal, Appellants present the new argument that the subject property is "rightfully zoned commercial" in accordance with a zoning order in 1947. The evidence shows that in 2003, during the 2004 Comprehensive Zoning Map Process, then-owner Mr. William Long filed an application for a reclassification of the property from RC5 to B.M., noting that the subject parcels were approved for Zone "E" commercial in 1947 by the Deputy Zoning Commissioner. Mr. Long noted in this letter to the Director of Planning and Zoning that the zoning maps since that time failed to indicate the commercial zone, and he requested that the maps be corrected. His request went through the proper procedures for consideration for reclassification and his request was denied by the Baltimore County Council by legislative action on August 31, 2004. Since the County Council establishes zoning in Baltimore County, and they have deemed by their action that the subject property is rightfully R.C.5, only a new request by the current owners – the Galassos – through the 2008 Comprehensive Zoning Map Process can effect a change. We therefore find his argument has no merit.

Debbie Jones testified that she had been the manager of the operation on Falls Road for five years and during that period of time no passenger vehicles had ever been repaired on the property. In the light of the testimony and documentary evidence submitted in support of the five code enforcement hearings and the findings related

thereto, Ms. Jones testimony is simply not credible. In her testimony at the fifth Code Enforcement proceeding, she admitted that there were five (5) employees working on the site, but when asked to provide their names, she refused to answer (County Exhibit 14, at p.94). She also admitted during her prior testimony that customers continue to drop off vehicles and that estimates for car repairs are routinely performed at the location (County Exhibit 14, at p.94-95), all in violation of the R.C.5 zoning and the Deputy Zoning Commissioner's Order.

Steven Galasso's testimony was likewise not credible. Although he admitted his knowledge of the Deputy Zoning Commissioner's Order that he cease and desist the passenger vehicle operation, he entered into a written agreement on October 3, 2003 with Nationwide Motor Sales Corp. to perform all of their passenger vehicle body and painting work at 10905-10911 Falls Road. This was an agreement that contemplated 5 years of such work. (County Exhibit 21, at p. 13). The agreement required that the work be done at 10905-10911 Falls Road, paragraph 2, and it further required the installation of a new paint booth (paragraph 3b). Galasso was questioned about the fact that he had sued the manufacturer of the paint booth in the Circuit Court for Baltimore County, alleging that due to the defective paint booth he lost $50,000.00 a month for 5 years. When pressed on this lawsuit, he invoked his Fifth Amendment privilege against self-incrimination.

To demonstrate his utter contempt for the oath he took prior to his testimony, Galasso testified that he was "unemployed" when asked where he was employed. In earlier proceedings before the Code Enforcement Hearing Officer he claimed not to know the names of employees working at the Falls Road location. He nevertheless did not

deny that he was depicted at that property in many of the photographs offered at the 5 code enforcement hearings. In short, none of Mr. Galasso's testimony is credible.

Argument

Based on the overwhelming evidence, the Board of Appeals should find as a matter of fact that the original legal non-conforming use has changed and expanded to an impermissible use as a passenger vehicle body shop. In addition, the original non-conforming use has been abandoned or discontinued, as stated in the testimony of William Long. As noted by People's Counsel in his letter to the Board, once this finding is made the non-conforming use is terminated as set forth in Section 104.1 of the BCZR. *See Prince George's County v. E.L. Gardner, Inc.*, 293 Md. 259, 266-68, 443 A.2d 114, 118-19 (1982); *Canada's Tavern v. Town of Glen Echo*, 260 Md. 206, 271 A.2d 664 (1970); *Phillips v. Zoning Comm'r of Howard County*, 225 Md. 102, 109, 169A.2d 410, 413 (1961); *Purich v. Draper Properties*, 395 Md. 694, 708-11, 912 A.2d 598, 607-09 (2006).

Moreover, the Board should also find that Mr. Wisnom's testimony clearly established the criteria for termination of the nonconforming use based on Section 104.8 of the BCZR.

As the Court noted in *Prince George's County v. E.L. Gardner, supra* at 268, 443 A.2d at 119, the purpose of restrictions on nonconforming issues "is to achieve the ultimate elimination of nonconforming uses through economic attrition and physical obsolescence." In addition, "local ordinances and regulations must be strictly construed in order to effectuate the purpose of eliminating nonconforming issues." *Id.*

Conclusion

For all the above reasons, the Board should order the termination of the non-conforming use and conversion of the property to a permitted use in compliance with the R.C.5 zoning classification as set forth in the Zoning Commissioner's March 13, 2007 Order.

Respectfully submitted,

JOHN E. BEVERUNGEN
County Attorney

JAMES J. NOLAN, JR.
Assistant County Attorney
400 Washington Avenue
Towson, MD 21204
410-887-4420
Attorneys for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of August 2007, a copy of Baltimore County's Post Hearing Memorandum was sent via First Class U.S. Mail, postage prepaid, to:

Donna M.B. King, Esquire
Law Office of Donna M.B. King
309 West Pennsylvania Avenue
Towson, Maryland 21204

James J. Nolan, Jr.

8/31/07

BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

IN RE: MATTER OF TIMOTHY KOTROCO, DIRECTOR, PDM, BALTIMORE COUNTY, PETITIONER, AND STEVEN AND JOANNE GALASSO, RESPONDENTS	*	07-205-SPH
10905 – 10911 Falls Road Lutherville, Maryland 21093	*	

* * * * * * * * * * * *

RESPONDENTS' CLOSING MEMORANDUM

Respondents Steven Galasso and JoAnne Galasso, owners of property addressed 10905 – 10911 Falls Road, Lutherville, Maryland (the "Property"), hereby file this Closing Memorandum, and refer the Board of Appeals to the Motion to Dismiss filed before the Zoning Commissioner, the Petition for Appeal, and the arguments made in the action *Galasso, et ux. v. Baltimore County*, in the United States District Court for the District of Maryland, attached hereto for the Board's review. Respondents incorporate all arguments within these briefings into their closing arguments before the Board of Appeals.

Moreover, Respondents demonstrated by evidence presented at the Hearing before the Board of Appeals that the Property is zoned commercial, that the zoning was not changed, and, therefore, there are and were no zoning violations on the Property.

The Zoning Commissioner correctly was concerned that Baltimore County Zoning Regulation ("BCZR") section 104.8, enacted by the County Council on September 8, 2006, permits the termination of a nonconforming use *if* the Department

hearing officer, proceeding under Baltimore County Code Article 3, Title 6, found a *present* continuing violation on a property occurring after the enactment of the statute. As set forth in Respondent's Motion to Dismiss, Baltimore County's attempted application of this new regulation to citations entered before the enactment of the regulation is an improper *ex post facto* application of law.

The Zoning Commissioner then bypassed 104.8 to use the general language of section 500.6 of the BCZR to still take away the purported non-conforming use of the Property. It was improper to not consider the specific language of section 104, which sets forth the exclusive situations in which a non-conforming use may end, to use a provision giving general powers to the Zoning Commissioner. *See* BCZR § 104.1 (a nonconforming use (as defined in section 101) may continue except as otherwise specifically provided in these regulations); *see also Farmers & Merchants Bank v. Schlossberg*, 306 Md. 48, 63, 507 A.2d 172, 180 (1986); *State v. Ghajari*, 346 Md. 101, 115, 695 A.2d 143, 150 (1996). Petitioner moved against Respondents on section 104.8 only, and, therefore, Respondents defended themselves before the Zoning Commissioner as to section 104.8 only. Thus, the Zoning Commissioner's Order in this matter improperly goes beyond Section 104's requirements to terminate a non-conforming use.

Lastly, Respondents state that even if the Zoning Commissioner's Order properly terminated the non-conforming use, then it was improper to require the razing of the existing service building on 10905 Falls Road. As stated during the hearing, the building has uses permitted outright or by special exception in a rural conservation zone, such as a florist or antique shop.

Based on the testimony and exhibits provided by Respondents during the hearing

in this matter, the record and briefing before the Zoning Commissioner, and the statements above, the Respondents respectfully request that the Board of Appeals reverse the Order of the Zoning Commissioner.

Donna M.B. King
Law Office of Donna M.B. King, LLC
309 West Pennsylvania Avenue
Towson, Maryland 21204
(410) 494-1005

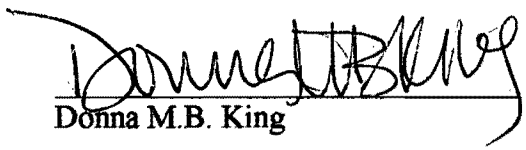
Attorney for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of August 2007, I served the foregoing Respondents' Closing Memorandum by First Class mail to the following counsel:

James J. Nolan, Jr., Esquire
Assistant County Attorney
400 Washington Avenue
Towson, Maryland 21204

Attorney for Petitioner Timothy Kotroco



Donna M.B. King

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

September 6, 2007

Donna M.B. King, Esquire
LAW OFFICE OF DONNA M.B. KING, LLC
309 West Pennsylvania Avenue
Towson, MD 21204

RE: *In the Matter of: Baltimore Count, Maryland and Timothy Kotroco –Petitioner; Steven L. Galasso, et ux –Legal Owners*
Case No. 07-205-SPH

Dear Ms. King:

This will acknowledge receipt of your letter dated August 17, 2007 and the accompanying Notice of Withdrawal of Attorney Appearance in the subject matter.

In addition, this letter will acknowledge receipt of your letter dated August 31, 2007 and the accompanying Closing Memorandum of Respondents.

The subject file has been noted regarding both your withdrawal of appearance and the Closing Memorandum filed on behalf of the Respondents to this matter.

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator

c: James J. Nolan, Esquire
Office of People's Counsel

FILE

LAW OFFICE OF DONNA M.B. KING, LLC
309 West Pennsylvania Avenue
Towson, Maryland 21204
410-494-1005
410-769-8333 fax

August 31, 2007

VIA FIRST CLASS MAIL

Ms. Kathleen C. Bianco
Administrator
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: Case No. 07-205-SPH
Timothy Kotroco, Petitioner
Steven L. Galasso, *et ux.*, Respondents

Dear Ms. Bianco:

As the Board of Appeals is aware, this office has filed a Notice of Withdrawal of Attorney Appearance. However, to ensure that a closing memorandum is in fact filed, enclosed please find the Closing Memorandum of Respondents in this matter.

Thank you for your consideration. Please contact me with any questions.

Very truly yours,

Donna M.B. King

cc: James Nolan, Esquire
Peter Max Zimmerman, Esquire

Enclosure

8/17/07

BEFORE THE BALTIMORE COUNTY BOARD OF APPEALS

IN RE: PETITION FOR SPECIAL HEARING 10905 – 10911 Falls Road Lutherville, Maryland 21093	*	07-205-SPH

* * * * * * * * * * * *

NOTICE OF WITHDRAWAL OF ATTORNEY APPEARANCE

Donna M.B. King, Esquire and the Law Office of Donna M.B. King, LLC hereby notices the withdraw appearance as counsel for Steven Galasso, JoAnne Galasso, Special Automotive, LLC, and Automotive Emporium, Inc., through its trustee, JoAnne Galasso, in this action. The enclosed letter from this office provided notice to these parties of the intention to withdraw appearance.

Donna M.B. King
Law Office of Donna M.B. King, LLC
309 West Pennsylvania Avenue
Towson, Maryland 21204
(410) 494-1005

Attorney for Steven Galasso, JoAnne Galasso, Specialty Automotive, LLC and Automotive Emporium, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of August 2007, I served the Notice of Withdrawal of Attorney Appearance by First Class mail to the following counsel:

James J. Nolan, Jr., Esquire
Assistant County Attorney
400 Washington Avenue
Towson, Maryland 21204

Attorney for Baltimore County

Peter Max Zimmerman
People's Counsel
400 Washington Avenue
Towson, Maryland 21204

And to:

Steven Galasso
JoAnne Galasso
8509 Thornton Road
Lutherville, Maryland 21093

Specialty Automotive, LLC
10907 Falls Road
Lutherville, Maryland 21093

Donna M.B. King

LAW OFFICE OF DONNA M.B. KING, LLC
309 West Pennsylvania Avenue
Towson, Maryland 21204
410-494-1005
410-769-8333 fax

August 6, 2007

VIA FIRST CLASS MAIL

Mr. Steve Galasso
Mrs. JoAnne Galasso
Automotive Emporium, Inc.
Specialty Automotive, LLC
8509 Thornton Road
Lutherville, Maryland 21093

Re: Withdrawal of Appearance

Dear Steve and JoAnne:

This letter serves as the intention of the Law Office of Donna M.B. King, LLC to move to withdraw its appearance in the following matters within five days of the date of mailing this letter:

Steven Galasso, et al. v. Baltimore County, Maryland, et al., United States District Court for the District of Maryland, Civil No. L-06-2750

Galasso v. Baltimore County, No. 03-C-07-6825, Circuit Court of Baltimore County

Galasso v. Baltimore County, No. 03-C-07-7572, Circuit Court of Baltimore County

Galasso v. Baltimore County, No. 1249, Court of Special Appeals of Maryland

Galasso v. Kotroco, No. 609, Court of Special Appeals of Maryland

Robert L. Williams v. Carroll Long, Case No. 03-C-03-003189, Circuit Court of Baltimore County

Galasso, et al. v. Baltimore County, 07-205-SPH, In the Baltimore County Board of Appeals

Galasso v. Williams, In the District Court of Maryland for Baltimore County, Case No. 080400293752006

Specialty Automotive, LLC v. Williams, In the Circuit Court for Baltimore County, C-07-002263

Please note that you may have another attorney enter an appearance on your behalf, or you may notify the Court Clerk, in writing, of your intention to proceed in proper person (representing yourself).

Please let me know if you decide to retain another attorney to enter an appearance.

Very truly yours,

Donna M.B. King

8/17/07

LAW OFFICE OF DONNA M.B. KING, LLC
309 West Pennsylvania Avenue
Towson, Maryland 21204
410-494-1005
410-769-8333 fax

August 17, 2007

VIA FIRST CLASS MAIL

Ms. Kathleen C. Bianco
Administrator
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: Case No. 07-205-SPH
Timothy Kotroco, Petitioner
Steven L. Galasso, *et ux.*, Respondents

Dear Ms. Bianco:

Enclosed please find a Notice of Withdrawal of Attorney Appearance.

Thank you for your consideration. Please contact me with any questions.

Very truly yours,

Donna M.B. King

cc: James Nolan, Esquire
Peter Max Zimmerman, Esquire

Enclosure

APPEAL

Petition for Special Hearing
10905-10911 Falls Road
East side Falls Road, 930 feet south centerline of Seminary Avenue
8th Election District – 2nd Councilmanic District
Legal Owner(s): Steven L. Galasso et ux

Case No.: 07-205-SPH

Petition for Special Hearing (January 3, 2007)

Zoning Description of Property

Notice of Zoning Hearing (November 15 and 30, 2006)

Certification of Publication (December 21, 2006)

Certificate of Posting (December 21 and 28, 2006) by Bureau of Code Enforcement

Entry of Appearance by People's Counsel (November 15, 2006)

Petitioner(s) Sign-In Sheet – 1 Sheet

Protestant(s) Sign-In Sheet – 1 Sheet

County Representative(s) Sign-In Sheet – 1 Sheet

Zoning Advisory Committee Comments

Petitioners' Exhibit
1. Listed as "Preliminary Motion; Exhibits 15A & B" – Not included in file
2. Listed as "Preliminary Motion; Exhibits 16 – Publication" – Not included in file
3. Listed as "County Exhibit 2 [objected to as to other entities] – Not included in fil
4. Listed as "County Exhibits 3A & B" – Not included in file
5. Baltimore County Index of Exhibits
6. Collectively – individual citations
7. Board of Appeals Remand
8. Response to Protest #2
9. Subsequent Violations – Not included in file
10. Response & Application for Rezoning

Protestants' Exhibits:
1. Permits & Development Management Correspondence
2. Collectively 2 invitations to County for site visit
3. Notes of William Long on zoning history

Miscellaneous (Not Marked as Exhibit)
1. Letter of postponement
2. Site map
3. Petitioner's Brief in Support of Petition for Special Hearing
4. Respondents' Motion to Dismiss
5. County Council Bill No. 105-06
6. Correspondence from Zoning Commissioner to extend deadline for submittal of written Memoranda
7. Correspondence from Donna King to Zoning Commissioner
8. Request from Zoning Commissioner's office to Donna King
9. Correspondence from James Nolan to Zoning Commissioner
10. Copy of email from James Nolan to Zoning Commissioner
11. Real Property Search – 8509 Thornton Road
12. Copy of Code Enforcement case no.05-8457 (3/331/06 & 8/27/06)
13. Copy of Code Enforcement case no. 03-7443 (9/8/03) 05-0457
14. Copy of Code Enforcement case no. 03-7404 (9/5/03)
15. Copy of Code Enforcement case no. 03-3537 (10/28/03)
16. Copy of Code Enforcement case no. 02-0020 (03/31/06)
17. Copy of Code Enforcement case no. 01-7222 (11/15/01)

18. Copy of Code Enforcement case no. 01-7085 (11/28/01)
19. Memo to file from zoning commissioner's office

Zoning Commissioner's Order (GRANTED in accordance w/order March 13, 2007)

Notice of Appeal received on March 30, 2007 from Donna M. B. King

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
~~Donna M. B. King 309 West Pennsylvania Avenue Towson 21204~~ w/o appeal 8/20/07
JoAnne Galasso 8509 Thornton Road Lutherville 21093
Carroll Edward Long 1619 Alston Road Towson 21204
Wilham Edward Long 1619 Alston Road Towson 21204
Specialty Automotive, LLC Debbie Jones, Resident Agent 10907 Falls Road Luthervi
21093
Jack Dillon ~~207 Courtland Avenue~~ Towson 21204
Paul Miller P.O. Box 725 Brooklandville 21022
~~Paul Miller 2360 W. Joppa Road, Suite 220 Lutherville 21093~~
Robert Williams 10901 Falls Road Lutherville 21093
James J. Nolan, Jr. 400 Washington Avenue Towson 21204
Raymond S. Wisnom, Jr. Code Enforcement Hearing Officer Department of Permits a
Development Management
Bureau of Code Enforcement

date sent April 20, 2007, amf

APPEAL

Petition for Special Hearing
10905-10911 Falls Road
East side Falls Road, 930 feet south centerline of Seminary Avenue
8th Election District – 2nd Councilmanic District
Legal Owner(s): Steven L. Galasso et ux

Case No.: 07-205-SPH

Petition for Special Hearing (January 3, 2007)

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1. Listed as "Preliminary Motion; Exhibits 15A & B" – Not included in file
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6. Collectively – individual citations
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9. Subsequent Violations – Not included in file
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4. Respondents' Motion to Dismiss
5. County Council Bill No. 105-06
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7. Correspondence from Donna King to Zoning Commissioner
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17. Copy of Code Enforcement case no. 01-7222 (11/15/01)

18. Copy of Code Enforcement case no. 01-7085 (11/28/01)
19. Memo to file from zoning commissioner's office

Zoning Commissioner's Order (GRANTED in accordance w/order March 13, 2007)

Notice of Appeal received on March 30, 2007 from Donna M. B. King

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Donna M. B. King 309 West Pennsylvania Avenue Towson 21204
JoAnne Galasso 8509 Thornton Road Lutherville 21093
Carroll Edward Long 1619 Alston Road Towson 21204
Wilham Edward Long 1619 Alston Road Towson 21204
Specialty Automotive, LLC Debbie Jones, Resident Agent 10907 Falls Road Lutherville 21093
Jack Dillon 207 Courtland Avenue Towson 21204
Paul Miller P.O. Box 725 Brooklandville 21022
Paul Miller 2360 W. Joppa Road, Suite 220 Lutherville 21093
Robert Williams 10901 Falls Road Lutherville 21093
James J. Nolan, Jr. 400 Washington Avenue Towson 21204
Raymond S. Wisnom, Jr. Code Enforcement Hearing Officer Department of Permits and Development Management
Bureau of Code Enforcement

date sent April 20, 2007, amf

3/30/07

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

IN RE: PETITION FOR SPECIAL HEARING 10905 – 10911 Falls Road Lutherville, Maryland 21093	*	07-205-SPH

* * * * * * * * * * * *

NOTICE OF APPEAL

Respondents Steven Galasso and JoAnne Galasso, owners of property addressed 10905 – 10911 Falls Road, Lutherville, Maryland, by and through their attorney, Donna M.B. King, Esquire, hereby notices their appeal of the March 13, 2007 Order of William J. Wiseman, III, Zoning Commissioner of Baltimore County.

Steven and JoAnne Galasso's home address is 8509 Thornton Road, Lutherville, Maryland 21093. Counsel's address is as listed below.

Donna M.B. King
Law Office of Donna M.B. King, LLC
309 West Pennsylvania Avenue
Towson, Maryland 21204
(410) 494-1005

Attorney for Respondents Steven Galasso and JoAnne Galasso

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of March 2007, I served the foregoing Notice of Appeal by First Class mail to the following counsel:

James J. Nolan, Jr., Esquire
Assistant County Attorney
400 Washington Avenue
Towson, Maryland 21204

Attorney for Petitioner Timothy Kotroco

Donna M.B. King

3/30/07

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

IN RE: PETITION FOR SPECIAL HEARING
10905 – 10911 Falls Road
Lutherville, Maryland 21093

* 07-205-SPH

* * * * * * * * * * * *

PETITION FOR APPEAL

Respondents Steven Galasso and JoAnne Galasso, owners of property addressed 10905 – 10911 Falls Road, Lutherville, Maryland, by and through their attorney, Donna M.B. King, Esquire, files this Petition for Appeal on the grounds described in detail in their Motion to Dismiss in this action. In addition, Respondents appeal on the ground that the Baltimore County Zoning Regulations Section 104 sets forth the exclusive situations in which a non-conforming use may end, and the Order in this matter improperly goes beyond Section 104's requirements to terminate a non-conforming use. Further, Respondents appeal on the ground that if the Order properly terminated the non-conforming use, then it was improper to require the razing of the existing service building on 10905 Falls Road.

Donna M.B. King
Law Office of Donna M.B. King, LLC
309 West Pennsylvania Avenue
Towson, Maryland 21204
(410) 494-1005

Attorney for Respondents Steven Galasso and JoAnne Galasso

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of March 2007, I served the foregoing Petition for Appeal by First Class mail to the following counsel:

James J. Nolan, Jr., Esquire
Assistant County Attorney
400 Washington Avenue
Towson, Maryland 21204

Attorney for Petitioner Timothy Kotroco

Donna M.B. King

3/12/07

IN RE: **PETITION FOR SPECIAL HEARING** E/S Falls Road (MD Route 25), 800' N of Greenspring Valley Road **(10905-10911 Falls Road)** 8th Election District 2nd Council District Steven L. Galasso et ux, Owners	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY **Case No. 07-205-SPH**

* * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by Baltimore County, Maryland, a body corporate and politic (Petitioner), through the Department of Permits and Development Management (DPDM). As filed, special hearing relief is requested, pursuant to Sections 500.6 and 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to determine whether to terminate the non-conforming service garage use at 10905-10911 Falls Road, due to continuing violations, and require the owner, tenant or entity having control of the land[1] (Respondents), to revert the use to one allowed under current R.C.5 zoning classification. The subject property is more particularly described on the plat that accompanied the petition and contained within the case file.

It should be noted at the outset that the Petitioner relies on B.C.Z.R. Section 104.8, however, this ordinance must be interpreted as a whole with the other non-conforming use provisions of Section 104 as opposed to an interpretation of Section 104.8 standing alone. In this regard, Section 500.6 of the B.C.Z.R. vests the Zoning Commissioner with the authority to

[1] Testimony demonstrated that Steven L. Galasso and his wife, JoAnne Galasso, are the current owners of the subject property. They purchased the property from William E. and Carroll E. Long in March and April of 2006 and have been, in one way or another, operating a service garage either as officer, director, stockholder, agent, employee, independent contractor or assignee of Valley Services Company, Specialty Automotive, LLC, Auto Emporium, Inc. and Lutherville Collision and Truck Center. Moreover, each of the individuals and entities named have received violation citations, attended Code Enforcement proceedings and contempt proceedings before the Circuit Court for Baltimore County for the illegal operation of a passenger vehicle body shop at this location.

conduct hearings involving any violation or alleged violation/non-compliance with any zoning regulation. Additionally, that Section allows the Zoning Commissioner to conduct a hearing to determine the proper interpretation of the B.C.Z.R. Similarly, Section 500.7 of the B.C.Z.R. allows the Zoning Commissioner to conduct such hearings and pass such Orders as shall be necessary for the proper enforcement of all zoning regulations.

Appearing at the hearing on behalf of the Petitioner were DPDM Code Enforcement Officers Jason Seidelman, Mark Gawel, Jeff Radcliffe and Jerry Chen; the Code Enforcement Hearing Officer, Raymond S. Wisnom, Jr. (Code Official) and James J. Nolan, Jr., attorney for the Petitioner. Also appearing in support of the request were Jack Dillon, Land Planner and former Director of the Valleys Planning Council, Paul G. Miller and Robert C. Williams, residents of the surrounding community. Appearing in opposition to the request were William E. Long, Carroll E. Long, Steven L. Galasso, proprety owner, and Donna M.B. King, Esquire, representing the Respondents.

As a preliminary matter, Ms. King presented Motions asking for the dismissal of the petition for special hearing on multiple grounds. Initially, she asked for a dismissal on the grounds of improper notice. Ms. King contends that the requirements found in Baltimore County Code (B.C.C.) Section 32-3-302(b) and B.C.Z.R. 500.7 were not complied with as the Respondent's property was not conspicuously posted for a period of fifteen (15) days prior to the time for the hearing and not advertised in at least two (2) newspapers of general circulation in the County. She argues that the Petitioner has not met the mandatory notice requirements set forth in said Sections and, therefore, should be prohibited from moving forward. Mr. Nolan produced the Code Enforcement Officers who posted the property and provided uncontroverted testimony that the property was posted not once, but twice (Petitioner's Exhibits 15A & B and 16). I find that the Respondents have waived any objection by their appearance at the hearing and lack of

identification, even generally, of any other interested parties that might have attended the hearing but for the alleged lack of notice. Based on the authority of *Cassidy et al v. County Board of Appeals of Baltimore County et al* 218 Md. 418 (1958), I find that there has been substantial compliance with the notice provisions of Section 500.7 of the B.C.Z.R., and thus, denied the Motion made on these jurisdictional grounds. Ms. King next argues that since the Respondents have not been found in violation of Article 3, Title 6, of the B.C.C. by the Code Official subsequent to September 8, 2006 (the effective date of County Council Bill 104-06), the petition must be dismissed. This Bill, she argues, which added Section 104.8 to the B.C.Z.R., must be construed prospectively. If not, it would be in violation of her clients "property interests entitled to constitutional protections". A decision on this issue was held sub-curia and Counsel given until February 23, 2007 to present legal Memoranda and argument on the question of the constitutionality of Section 104.8 of the B.C.Z.R. as that section relates to the facts of this case.

The subject property consists of two (2) irregularly shaped parcels located on the east side of Falls Road midway between the intersections of Greenspring Valley Road and Seminary Avenue in Lutherville. The lots contain a combined gross area of 1.7 acres, more or less, zoned R.C.5[2] and are improved with a number of buildings and parking areas, all of which are more particularly described on the site plan accompanying Petitioner's special hearing request. At issue in this case are the shop repair areas, existing office (10907 Falls Road) and service building (10905 Falls Road) totaling some 9,000 square feet and used as a service garage, as well as the accessory parking areas and fenced storage yard. The decision rendered by Deputy Zoning Commissioner Kotroco in Case No. 02-419-SPH, dated November 7, 2002, is very clear.

[2] For reasons set forth in Respondent's Memorandum and Exhibit 3, marked for identification only, William and Carol Long assert that the subject property was and is zoned B.L. as opposed to R.C.5. They ask that I focus on this basic issue to resolve this matter. In my review of Mr. Long's testimony and the entire exhibit, it would appear that attempts to rely on this argument, that the current zoning classification is erroneous, is not persuasive and can be of no comfort to Respondents. The provisions of the B.C.C. Section 32-3-211 et seq. place the Comprehensive Zoning Map process in the hands of the County Council and not this Commission.

Commissioner Kotroco was careful to enunciate in his Order those uses which were proven at the hearing before him to be truly non-conforming and therefore, permitted. While his Order allowed the business known as the "Valley Services Company" operated by the Long family since 1849 to continue to operate from the subject site, he indicated on Page 10 that Mr. Galasso's current use of the property is not to be considered an intensification of that historical non-conforming use and, therefore, must cease and desist immediately. Apparently, feeling aggrieved, Respondents then attorney Carroll Holzer filed, on behalf of his clients, a Motion for Reconsideration to permit the Long brothers to repair, paint and customize trucks and specialty vehicles. By Opinion and Order, dated January 7, 2003, Deputy Zoning Commissioner Kotroco, found it appropriate to modify his previous Order in an extremely limited fashion which in pertinent part bears repeating here:

> "The testimony presented at the hearing and the photographs submitted therein did demonstrate that the owners of the property, William and Carroll Long, on a very limited basis, did perform painting and customizing work to antique and classic vehicles. The restoration of an antique or classic vehicle shall be permitted to continue to occur on the property by the *Valley Services Company*. This shall not in any way be interpreted to *permit the repair and painting of the average passenger vehicle* as was taking place on the property by the Lutherville Collision & Truck Center.
>
> Therefore, I believe it is appropriate to expand upon my original approval that was granted to the Long family, *to allow them*, in addition to the painting and modification of large trucks and specialty vehicles such as ambulances, fire suppression equipment, large government and military vehicles, tractor cabs and other such similar vehicles, to include the painting and repair of classic and antique automobiles only. This expansion on my previous approval *shall in no way be interpreted to permit the repair and painting of the average automobile by anyone on the property.*" (Emphasis Added)

In arriving at my ruling given this backdrop, I am mindful of this past history and that the parties to this case are in their fifth year of litigation. They are in the County Board of Appeals, the District and Circuit Courts for Baltimore County, the Court of Special Appeals (No. 609) and the United States District Court (Civil No. L-06-2750). As evidenced by the case before me,

there is tension between the legal right of a non-conforming use to exist and the mandate for termination upon change. Non-conforming use cases are contentious because termination of use is at stake and property owners resist termination and seek to perpetuate such uses despite apparent changes. To state that non-conforming use cases present a high degree of difficulty is an understatement. They require an intellectually demanding legal analysis and in this case particularly, deference must be given to the agency findings of the Code Official and his orders based upon the facts and evidence presented to him.

In brief, the testimony and evidence offered and the record before me evidences that since 2002, the Petitioner has been attempting to prevent Respondents and the various Galasso-controlled entities from unlawfully operating a passenger vehicle auto body repair shop in a resource conservation (Rural-Residential R.C.5) zone. The volume of activity being conducted on the premises disturbed the surrounding neighborhood and brought about traffic problems on Falls Road. As early as January 2002, Code Enforcement Officers began issuing zoning violation citations. Despite public hearing(s) and Orders detailing the finding(s) of fact and contempt proceedings mandating that the use "must cease and desist immediately", it nevertheless continued. Code enforcement proceedings have been initiated on four (4) separate occasions against the Respondents and controlling entities over a period from March 10, 2004 to August 18, 2006 (*See*, e.g., Petitioner's Exhibit 5 - "Enforcement Orders" – Pages 32 through 83 and Citations - Petitioner's Exhibit 6). As noted, there have been multiple legal proceedings for civil penalties, Judicial Review, Declaratory and Injunctive Relief, and Mandamus, Temporary Restraining Orders and most recently, Respondents sought (unsuccessfully) the intervention of the United States District Court to enjoin the proceedings before me.

Testimony, affidavits, and photographic evidence produced in the four code enforcement proceedings against the Respondents connected with the property over the period of March 10,

2004 to August 18, 2006, provide a clear and convincing overview of service garage activities being conducted in violation of the zoning regulations and Orders delineated by this Commission and the Code Official. Photographic exhibits, testimony of witnesses and Code Enforcement Officers and monthly written logs show a multitude of average automobiles of different manufacture and in various stages of damage or repair. Photos depict passenger vehicles entering on flatbed trucks, trucks delivering auto parts, customers dropping off cars, employees providing estimates, and damaged/disabled vehicles stored on the premises. In each of the four proceedings conducted before the Code Official, he found the Respondents to be continually operating a passenger vehicle auto body shop outside this Commission's Orders. Respondent William E. Long's admission that the repairs and modification of specialty and classic vehicles had "diminished to a point that the business cannot be sustained without resorting to performing repairs and painting of ordinary passenger vehicles and light trucks" underscores the similar testimony presented by Inspector Wasilewski and the long-time residents of the area, namely Robert L. Williams, Lesley Tunney, Paul Miller and Gill Shelhoss.

As to the Respondents, they argue that this action should be dismissed primarily on constitutional and procedural violations of due process. They point out in essence that the Permits and Development Management Director, Timothy M. Kotroco, oversaw and controlled the Code Enforcement Officers who issued the citations (Petitioner's Exhibit 6) and oversaw the adjudication by the Code Official Wisnom who upheld the citations. The presentation of these Orders as proof of continuous violations on the property, they urge, should be considered null and void because they, and the process created by Baltimore County, is volatile of the due process protections of the United States Constitution and the Maryland Declaration of Rights. Most specifically, Respondents and lessees of the property assert that they have been denied the right to an impartial tribunal and have been denied the right to appeal. Ms. King points out that

due process requires an impartial trial, which was not present here in the Department's in-house "quasi-judicial hearing". "A fair trial in a fair tribunal is a basic requirement of due process. Fairness of course requires an absence of actual bias in the trial of cases" *in re Murchinson,* 349 U.S. 133, 136 (1955).

It is beyond dispute that Code Official Wisnom, the Judge in the "quasi-judicial hearings" that lead to the Orders used against Respondents in this action was also the witness against the Respondents before me. During these proceedings, Mr. Wisnom sat at the Petitioner's table and assisted attorney Nolan in the prosecution of this matter. Mr. Kotroco, as head of the Department, also had delegated the duty to Mr. Wisnom to hear alleged zoning violations. Further, Ms. King points to an e-mail communication for the proposition that Kotroco had reached out to witnesses against the Respondents and sought their assistance at the Code Official hearings. Thus, by keeping the citation process in-house, Petitioner has worn the hat of investigating alleged violations and then presiding over the hearings that were the result of the same investigations. Given this process, they submit it is simply impossible to guarantee any impartiality and I should hold "invalid" the Hearing Officer's findings because they were procedurally irregular and not derived at in a legal way. They would have me believe that Wisnom took a quasi-ex parte approach which they describe as some kind of star chamber which caters to the County. Respondents, in effect, claim that the County officials acted in an arbitrary and capricious manner in prosecuting these violations and imposing fines in the tens of thousands of dollars against Respondents. But, "in the absence of evidence to the contrary, administrative officer's ... [are] presumed to have properly performed their duties and to have acted regularly and in a lawful manner". *Md. Securities Com'r v. U.S. Securities Corp.,* 122 Md. App. 574, 588 (1998). And, since Respondents chose not to produce any evidence or even

question the County representatives as to the basis of their perceived prejudices, I must conclude that the agency and the Code Official carried out their duties properly.

Both sides have set forth their arguments on the issues in written Memorandum. Both Memorandums were well prepared and eloquently set forth the position offered by each side. The earnest aim and ultimate purpose of zoning was and is to reduce non-conformance to conformance as speedily as possible with due regard to the legitimate interest of all concerned, and the ordinances forbid or limit expansion of non-conforming uses and forfeit the right to them upon change. *See Purich v. Draper Properties, Inc.* 395 Md. 694 (2006). The standard to be applied, as specified in Section 104.1, is whether or not there has been a change in use at the subject property. Specifically, B.C.Z.R. Section 104.1 provides:

> "A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to *any other use whatsoever,* or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate".

Based upon the undisputed testimony and evidence presented, I easily find by a preponderance of the evidence that passenger vehicles are continuously being dropped off to be worked on. The Respondents have flaunted the "very limited right to restore antique or classic vehicles on the property" to mean that they can do whatever they want without asking or answering to anyone. They have bent and stretched the "non-conforming use" rules and regulations found in B.C.Z.R. Section 104 to serve their own purposes. This operation needs to be called what it is – a high-volume passenger vehicle body shop operation and accordingly an unlawful extension of the approvals granted by the Deputy Zoning Commissioner. When given an inch, a mile will be taken, as has been the case here. It has been over five years and it is time for compliance. There is no vested right to a non-conforming use and when it is used inappropriately it lapses or terminates under B.C.Z.R. Section 104.1. The County Council's

decision to enact new Section 104.8 of the B.C.Z.R. (Bill 105-06) confirms and reinforces the legislative intent to eliminate non-conforming uses and place restrictions on their expansion. Section 104.8 states in a more specific way that which has already been inherent and provided for in Sections 500.7 and 104.1 of the B.C.Z.R. I am, however, concerned based upon the record before me, to apply Section 104.8 as both subparts A and B use the word "is" when determining if a violation of the County Code has occurred. The word "is" denotes present tense and as Counsel for Protestants points out, the violations before me occurred prior to the effective date (September 8, 2006) of this legislation. Moreover, the Court of Appeals of Maryland has said "we have long avoided addressing constitutional issues when it is not necessary to do so". *See Taylor v. State of Md.* 388 Md. 385, 400, n.7 (2005). As noted, I have plenary authority to rule on and consider violations of any zoning regulation, (Section 500.6). It is time to say no to the Respondents who have failed to live within the boundaries of the non-conforming use established by the Long family and have forfeited same pursuant to the requirements of the B.C.Z.R. It is not just an increase in volume of an already existing business, but is a new and different business. The operation of the passenger vehicle body shop is a wholly new use and therefore, impermissible.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County, this 13th of March, 2007, pursuant to Sections 500.6, 500.7 and 104.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) that the non-conforming use granted in prior Case No. 02-419-SPH, is hereby terminated and the Petition for Special Hearing be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Respondents shall convert the property to a permitted use in compliance with the R.C.5 zoning classification by:

1. Removing the commercial signs and the impermeable paved surface placed on the property by the Respondents subsequent to September, 2001 and submit a landscape plan for approval and revegetation of the area. The area must be re-landscaped within six (6) months.

2. The building known as 10911 Falls Road is historic and listed on the County Register (MHT) BA-1590 and a contributing structure in the Greenspring Valley National Register District. Any future demolition request must be reviewed by the Baltimore County Landmarks Commission and may require an Administrative Special Hearing. If the existing structure is converted to a single-family dwelling, Respondents shall obtain a variance for a 4-foot side yard set back in lieu of the required 50-feet. The Office of Planning may require a Finding of Compliance with the R.C.5 Performance Regulations prior to the issuance of any building permits.

3. Provide a note on any future plans that Falls Road is a scenic route and that the property is within the traffic shed of Falls Road and Greenspring Valley Road, which is operating at an "F" level of service.

4. Within six (6) months, the existing service building, 10905 Falls Road, shall be razed after appropriate planning review if required (i.e., landmarks preservation).

5. The Respondents shall permit a representative of the Code Enforcement Division of the Department of Permits and Development Management (DPDM) reasonable access to any of the buildings on the subject properties to insure compliance with this Order.

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

WILLIAM J. WISEMAN, III
Zoning Commissioner for
Baltimore County

ORDER RECEIVED FOR FILING
Date 3-13-07
By DJ

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

March 13, 2007

WILLIAM J. WISEMAN III
Zoning Commissioner

James J. Nolan, Jr., Esquire
Assistant County Attorney
Office of Law
400 Washington Avenue
Towson, Maryland 21204

RE: **PETITION FOR SPECIAL HEARING**
E/S Falls Road (MD Route 25), 800' N of Greenspring Valley Road
(10905-10911 Falls Road)
8th Election District - 2nd Council District
Steven L. Galasso et ux, Owners
Case No. 07-205-SPH

Dear Mr. Nolan:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 410-887-3391.

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

c: Raymond S. Wisnom, Jr., Code Enforcement Hearing Officer, DPDM
Code Enforcement Officers: Jason Seidelman, Mark Gawel, Jeff Radcliff, and Jerry Chen, DPDM
Jack Dillon, 207 Courtland Avenue, Towson, Md. 21204
Paul Miller, P.O. Box 725, Brooklandville, Md. 21022
Paul Miller, 2360 W. Joppa Road, Suite 220, Lutherville, Md. 21093
Robert Williams, 10901 Falls Road, Lutherville, Md. 21093
Donna M.B. King, Esquire, 309 W. Pennsylvania Ave., Towson, Md. 21204
William E. Long, 1619 Alston Road, Towson, Md. 21204
Carroll E. Long, 1619 Alston Road, Towson, Md. 21204
Steven L. Galasso, 10905 Falls Road, Lutherville, Md. 21093
People's Counsel; Division of Code Enforcement; Office of Planning; Case File

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND
(NORTHERN DIVISION)

STEVEN GALASSO, *et ux.*,	*	
Plaintiffs,	*	Case No.: L-06-2750
v	*	
BALTIMORE COUNTY, MARYLAND,	*	
Defendant.	*	

* * * * * * * * * * * *

PLAINTIFF STEVEN AND JOANNE GALASSO'S OPPOSITION TO DEFENDANT BALTIMORE COUNTY, MARYLAND'S MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT

Plaintiffs Steven Galasso and JoAnne Galasso, by and through their undersigned attorney, oppose Defendant Baltimore County, Maryland's Motion to Dismiss or, in the Alternative, for Summary Judgment ("County Motion"), and state as follows:

BACKGROUND

As set forth in the Complaint in this matter, there are two separate sets of actions by Baltimore County that are at issue. First, by error on a 1955 zoning map, Baltimore County listed the Galassos' property addressed 10905 – 10911 Falls Road (the "Property") as residential, rather than the commercial zoning previously granted to the Property. Baltimore County will not set a new hearing to correct the mistake and acknowledge the commercial zoning granted by the Baltimore County Zoning Commissioner in 1947.

Second, in this action the Galassos assert constitutional violations arising from the Baltimore County's Department of Permits and Development Management's (the

"Department") in-house "quasi-judicial process." The Department set up this system in 1997, purportedly on the authority of a 1988 act of the State of Maryland, to hear the matters itself rather than to send them to the District Court of Maryland for Baltimore County, as required by another Maryland statute. This system has resulted in the Department issuing citations in tens of thousands of dollars against the Galassos and companies operating on the Property, the Department upholding the citations, and the Galassos being without a right to appeal because they cannot post the appeal amount.[1]

In its motion, Baltimore County sets forth a six page "Background" section interlaced with a discussion of the various proceedings between the parties, and Baltimore County's counsel's unsupported commentary and opinions on events and the characters of the Galassos.[2] For purposes of the motion, the Galassos will address in this section the prior proceedings that actually relate to this pending motion. The Galassos will respond in the "Statement of Material Facts" only to the facts actually presented in the County's "Additional Facts" section.[3]

The prior proceeding that is relevant to the issue of the proper zoning of the Property is only the recent declaratory judgment and mandamus action filed in the Circuit Court for Baltimore County, *Galasso, et ux. v. Baltimore County*, Maryland, Case No. 03-C-06-008530. The Galassos sought an order that included requiring Baltimore County to correct the 1955 zoning map error. Baltimore County filed a motion to dismiss

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[1] The Department's citations were based on alleged violation of non-conforming use orders issued by then Deputy Zoning Commissioner Timothy Kotroco dated November 7, 2002 and January 7, 2003 (the "Non-Conforming Use Orders").

[2] Examples of such statements include an allegation or opinion that Automotive Emporium, Inc. was dissolved "in a ploy to make the Consent Judgment and contempt findings meaningless," and, as to the purchase of the Property, "the amount of consideration recited in the deeds appears to be questionable, in light of the fair market value of the property." County Motion at 7. Such commentary is irrelevant to the current motion, and the Galassos will respond to these comments in the appropriate briefing.

[3] The "Additional Facts" section apparently is the County's Statement of Material Facts required by

the Complaint. This action, addressed by Baltimore County on pages 4 and 5 of its Motion, was ruled upon by Order dated January 19, 2007. The Order is attached hereto as Exhibit A. The Circuit Court did not address the section of the Complaint demanding a correction of the zoning map error, but rather only addressed the Galassos' request that the Department be prevented from going forward on an August 18, 2006 hearing on citations issued by the Department against the Galassos. The Court granted the motion for dismissal, holding that because the Galassos were proceeding with their appeal of the Department's order upholding the citations, there is an "adequate legal remedy in the form of an administrative hearing process."

The prior proceedings relevant to the issues of the Department's power to hold its "quasi-judicial hearings" on alleged zoning violations and the inability of the Galassos to appeal the Department's orders are as follows:

> *Petition of Steven Galasso*, Case No. 3-C-04-013025, wherein Galasso sought review of the Department's refusal to forward his appeal to the County Board of Appeals on citation orders on the ground that the $25,200.00 fine was not posted with the appeal. Galasso argued that the posting of security was not a condition precedent to the ability to appeal. That is, Galasso argued that the Baltimore County Code did not require posting the security within the fifteen day appeal time in order to be able to appeal. The Circuit Court of Baltimore County upheld the Department's interpretation of the code provision, mandating that a party desiring to appeal a decision of the Department must post the full amount of the fine within the fifteen day appeal time. (County Motion App. 99-103).
>
> *Galasso v. Baltimore County*, Case No. 3-C-05-0107, a matter related to the same citation at issue in the action above wherein Galasso sought a ruling in mandamus that the Department be required to forward his appeal to the Board of Appeals. The Court granted Baltimore County's motion to dismiss without a written opinion. (County Motion App. 107-08).
>
> *Galasso v. Baltimore County*, Case No. 3-C-06-8483, wherein Galasso sought a Temporary Restraining Order and injunctive relief to prevent a

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the Federal Rules to accompany a motion for summary judgment.

> Department hearing on another set of zoning citations. As set forth in the County's motion, the Circuit Court did deny the relief; however, the Court went beyond the standard of a ruling on a TRO to also state in the Order, without a full hearing, that "Md. Ann. Code, Art. 66B, § 14.02 authorizes the 'administrative hearing' which petitioners seek to restrain.'" The Petitioners filed emergency motions to the Court of Special Appeals, but the Court denied the motions. Petitioners then sought to stay the interlocutory appeal pending a full hearing in Circuit Court, and Baltimore County argued that the TRO Order should be deemed a "final judgment." This action currently is before the Court of Special Appeals.

Baltimore County cites to a ruling of the Court of Special Appeals, in *Galasso v. Baltimore County*, Case No. 02136, September Term 2006, and claims that Galasso "rais[ed] many of the same arguments asserted in his federal Complaint." County Motion at 4. Baltimore County did not identify the arguments. However, in that action, Galasso claimed that the Department should not have proceeded against him because the Department lacked subject matter jurisdiction. The Court of Special Appeals did note the County's arguments relating to Maryland Code Article 66B sections 7.02 and 14.02, but the Court did not make a ruling on the interpretation of those sections. (County Motion App. 135-154). The County had not raised the argument on those code sections in the Circuit Court. The Court of Special Appeals ruled that the Department's finding that Galasso was a proper party at the time of the citations was a final judgment, and, therefore, the Department had subject matter jurisdiction.

Baltimore County also cites to an action filed against Galasso by Timothy Kotroco, Director of the Department, for injunctive relief relating to the use of the Property. County Motion at 5-7. Although the County spends a good deal of space in its motion discussing that action, it is not relevant to the matters before this Court. In addition, the current action by Kotroco before the Zoning Commissioner to take away the Galassos' non-conforming use of the Property, for which the parties appeared at the

January 9, 2007 hearing, also is not relevant in that there is no prior precedent established there that may have bearing on this action, and there are no current questions in the action to be decided that may have bearing here.[4]

STATEMENT OF MATERIAL FACTS

In 1947, the Baltimore County Zoning Commissioner granted "e" commercial zoning to the Property. *See* Petition and Order for Zoning Re-Classification, dated January 13, 1947, attached hereto as Exhibit B. This Order has not been changed, and remains in effect to this day. However, because of the error made by whomever drafted the 1955 zoning map, Baltimore County claims that the zoning is residential. It must be noted that the County corrected its error, and a 1971 zoning map lists the 1947 Petition. *See* County Motion App. 210. Later maps do not reflect the correction. *Id.* Despite this obvious error, Baltimore County will not grant the Galassos a hearing to resolve this dispute. December 6, 2005 letter from Arnold "Pat" Keller to William Long, attached to hereto as Exhibit C.

As chronicled in the State of Maryland's motion to dismiss, in 1997, the Department set up its own in-house "quasi-judicial process" rather than send the matters to the District Court of Maryland for Baltimore County. Memorandum of Law in Support of Consent Motion to Intervene and Motion to Dismiss ("State of Maryland Motion"), at 5. Relevant here is that the State, in moving to intervene in the federal action, produced some legislative history of section 14.02 created in 1988, the year of enactment. State of Maryland Motion at Ex. E. The documents demonstrate that the intent of the section was to permit an administrative hearing process before the Baltimore

[4] However, the action is relevant to the Galassos' rights in that the County is attempting to use the

County Zoning Commissioner. *Id.* The legislative history does not support a proceeding before the Department.

ARGUMENT

I. THE FEDERAL ABSTENTION DOCTRINES DO NOT APPLY HERE AND THIS COURT CAN PROCEED IN DECIDING THE ISSUES PRESENTED.

A. THE PULLMAN ABSENTION SHOULD NOT APPLY TO THE MANY ISSUES PRESENTED IN THIS ACTION.

Baltimore County first contends that the abstention doctrine of *Railroad Commission of Texas v. Pullman Co.*, 312 U.S. 496 (1941) may apply here to the extent that there are unsettled questions of state law. County Motion at 17-18. Baltimore County described the doctrine as appropriate "when a Court must resolve intricate and unsettled questions of state law before deciding Constitutional issues." *Id.* Citing to *Meredith v. Talbot County, Maryland,* 828 F.2d 228 (4th Cir. 1987), the County contends that *Pullman* abstention is appropriate where "there are questions of state law that may dispose of the case and avoid the need for deciding any constitutional questions." *Id.* at 18.

Baltimore County does not provide a more complete discussion of the circumstances in which the *Pullman* abstention may apply, but merely states that it "believes that the legal questions in this case have already been resolved against the Plaintiffs." County Motion at 18. For *Pullman* abstention to be invoked, there must be an unclear issue of state law that is potentially dispositive, and disposing of state law will avoid the constitutional question. Abstention is appropriate only when the state law is

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prior orders against them, which the Galassos were unable to appeal, to establish a continuing violation.

"far from clear." *Pullman*, 312 U.S. at 499. Here, a ruling on the state law issue will not avoid the constitutional questions. As described herein, there are separate constitutional challenges, as to the zoning map error and as to the refusal to allow a court hearing and a right to appeal.

The parties cannot avoid a constitutional question by the disposition of state law. If a court rules that the statutes relating to the Department's administrative process is constitutional, there would still be a need for a determination of whether there is a constitutional depravation in the actions of the Department, namely, its lack of impartiality and its practice of seeking fines of too great of an amount so that the Galassos cannot post the money in the fifteen days for an appeal. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976) (discussing the dictates of due process, which "generally require consideration of three distinct factors: First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail").

There is no issue, at least as to Steven Galasso, that in accordance with a ruling of the Circuit Court for Baltimore County, Baltimore County Code requires that he must post the full amount of a civil penalty imposed by the Department in order to appeal a Department ruling to the County Board of Appeals. County Motion App. at 99-103. Therefore, there is no unresolved issue of state law to prevent this Court from ruling on the constitutional issues.

To the extent that this Court finds that it is appropriate for a state court to render a final judgment on the interpretation of Articles 66B, sections 7.02 and 14.02 and Baltimore County Code section 3-6-201 and 32-3-601 *et seq.* prior to a determination of the constitutionality of the provisions, the Galassos request that this portion of their Complaint be stayed pending a ruling, and the portion of their Complaint alleging constitutional violations arising from the zoning map error be permitted to proceed.

B. THE BURFORD ABSENTION DOES NOT PROHIBIT AN ACTION THAT DOES NOT REQUEST A REVIEW OF THE COUNTY'S RULINGS.

Baltimore County next contends that the abstention doctrine of *Burford v. Sun Oil Co.*, 319 U.S. 315 (1943) should apply here to warrant dismissal of the Galassos' due process and equal protection claims. *Burford*, along with a decision applying that case, upon which Baltimore County relies, *Pomponio v. Fauquier County Board of Supervisors*, 21 F.3d 1319, 1322 (4th Cir. 1994), does not apply because this matter does not present a complex area of local law and the court here is not called upon to review a zoning or permit decision in the place of a county zoning appeals board. The Galassos are not asking this Court to review a denial of a permit or zoning variance, and they are not asking the Court to rule upon or review the merits of the Department's findings of fact against them. The Galassos are asking this Court to rule upon the constitutionality of the Department's "quasi-judicial" process, including the scenario of fines in amounts in which it is impossible to post in the fifteen day appeal time. In all but one set of citations, the Galassos were not able to exercise their appeal rights because they could not post the fines.

In *Burford*, the Supreme Court held that a district court may decline to hear an

action if it determines that the state court would be better positioned to rule upon a complex local area of law, and abstaining would prevent a conflict in state and federal court decisions in the area of law. In *Burford,* the plaintiff claimed the Texas Railroad Commission had misapplied the Texas oil and gas conservation statutes in refusing to grant an oil drilling permit, and had further alleged a violation of due process. The Supreme Court stated that federal court intervention in the particular situation presented would confuse state law. The *Burford* Court further noted the presence of conflicts in the decisions of the state and federal courts in drilling permit cases.

Applying *Burford* and ruling that the district court should have abstained from exercising its jurisdiction, the Supreme Court in *Alabama Public Service Commission v. Southern Railway Co.,* 341 U.S. 341, 347 (1951) relied on the following: (1) the availability of adequate state remedy with court review of the administrative decision in issue; (2) the unified nature of the state regulatory process; and (3) the fact that the outcome of the railroad's due process claim would be determined by the "predominately local factor of public need for the service rendered."

In *Pomponio*, a building developer disputed the interpretation by the county planning commission of the density regulations in a zoning ordinance. The Fourth Circuit, calling the matter a "garden variety zoning dispute," described the dispute as "[t]he Commission gave three reasons for denying approval of Pomponio's plan: (1) the proposed layout of the Clover Hill development constituted a density transfer which the state enabling legislation does not permit; (2) the number of lots exceeds the maximum density permitted in the Fauquier County zoning ordinance; and (3) the proposed streets were shown to run across the land of others who had not consented to the streets." *Id.* at

1322-23. The Fourth Circuit ruled that the federal court should not be taking the place of a county zoning appeal board:

> It is also clear that in most of these cases requiring Burford abstention, the federal claim cannot be untangled from the state or local zoning or land use law. Therefore, we believe that in the usual case federal courts should not leave their indelible print on local and state land use and zoning law by entertaining these cases and, in effect, sitting as a zoning board of appeals, as Justice Marshall so aptly put it in *Village of Belle Terre*, 416 U.S. at 13, 94 S.Ct. at 1543, or as that board, or a Planning Commission, or Board of Supervisors, as applicable here.

Id. at 1327. Again, the Galassos are not requesting that this Court step in the place of the County Board of Appeals and review the specifics of the ruling of the Department.

The concerns expressed in the Supreme Court caselaw and applied in *Pompanio* are not at issue here, and, therefore, abstention should not be exercised here. This Court must start with "the fundamental proposition that abstention is the exception, not the rule." *Id.* at 1324. Baltimore County does not address the underpinnings of the Burford abstention, but rather, cites to *Pompanio* for the proposition that claims stemming solely from zoning law should not be heard in federal court. Here, there is no request to interpret a zoning regulation, as in *Pompanio*. There is no situation as that in *Southern Railway*, where the court looked to whether there was an adequate state court review. Here, the Galassos cannot appeal to the Board of Appeals, let alone appeal further to the Circuit Court. Thus, *Burford* abstention should not apply here.

C. THE YOUNGER ABSENTION SHOULD NOT APPLY.

Baltimore County claims that the abstention announced in *Younger v. Harris*, 401 U.S. 37 (1971) should apply here, alleging that the federal claims have been or "could be raised" in an ongoing state proceeding. County Motion at 20. Baltimore County does

not identify the proceeding or what could have been raised therein, but only generally cites to its "Background" and "Additional Facts."

In *Younger*, 401 U.S. at 53-54, the Supreme Court announced a principle that, absent "extraordinary circumstances," federal courts should not entertain injunctive relief when there is a pending state criminal proceeding. The Supreme Court has extended this principle to civil actions. *Pennzoil Co. v. Texaco, Inc.*, 481 U.S. 1 (1987). This doctrine is not applicable to the issues in this action. The situations heard by the Supreme Court involved federal actions relating to the state court actions in which it is alleged a constitutional right was infringed upon. The Galassos have been unable to appeal the Department's Orders, because they cannot post the civil penalty in the fifteen days required by Baltimore County Code, and, therefore, the Galassos are not requesting a federal review while those actions are pending. Those actions ended because the Galassos were unable to proceed.

Baltimore County claims that there are three findings necessary for a *Younger* abstention, one of which is "important State interests." County Motion at 20. Baltimore County claims that the "important State interests" are "(a) the State Legislature's right to authorize a local government to conduct administrative code enforcement proceedings, and (b) the County's right to enforce its zoning laws." *Id.* These alleged "interests" miss the point of this federal action. The Galassos assert that their rights are violated by the County's application and interpretation of the laws upon them. Baltimore County does not address its refusal to grant a special hearing on the commercial zoning of the Property, and the constitutional violations in the Department's process, including the inability of the Galassos to appeal to the Board of Appeals. Moreover, these issues are

not currently before a state court, and, therefore, this Court is not restrained by a pending state court matter.

II. BALTIMORE COUNTY'S MOTION TO DISMISS OR MOTION FOR SUMMARY JUDGMENT SHOULD BE DENIED BECAUSE THE GALASSOS' COUNTS DO IN FACT STATE CLAIMS FOR WHICH RELIEF MAY BE GRANTED.

A. THE COUNTY'S ACTION ON WILLIAM LONG'S COMPREHENSIVE ZONING MAP PROCESS APPLICATION IS NOT RELEVANT TO CORRECT ZONING OF THE ENTIRE PROPERTY.

Baltimore County contends that an application made by former Property owner William Long disposes of Count I of the Galassos' Complaint. Long made an application pursuant to the Comprehensive Zoning Map Process ("CZMP") to change the residential zoning of 10911 Falls Road only, not the entire Property. County Motion App. at 209. According to the County's documents, as support for the application, Long cited to the zoning error map that was discovered. *Id.* at 210. Baltimore County contends that the County's denial of the application was made with due process, and, therefore, there is no constitutional violation as set forth in Count I of the Complaint. The fact that Long's application was for only 10911 Falls Road is determinative of the County's motion to dismiss or for summary judgment as to Count I, and must be denied simply because it does not apply to the other addresses on the Property.[5]

Even if the County's denial of the CZMP application for 10911 Falls Road were determinative of the entire Property, the CZMP process has no bearing on the County's refusal to grant a special hearing, outside of the CZMP process, to correct a zoning map

[5] 10911 Falls Road is not the entirety of the Property, but is a house along Falls Road. The vehicle repair shop, the part of the Property at issue in the Non-Conforming Use Orders and the various citations, is 10905 Falls Road. The County clearly is incorrect that Long's 2003 application is relevant to the zoning of

error. At best, the application could be seen as an attempt to correct the County's zoning map error.

The County claims that the Galassos can petition for a zoning reclassification, which is a process that assumes that the current zoning of a property is correct. However, the County then states that "there is no evidence to support the requisite findings of the Board of Appeals that there has been a substantial change in the character of the neighborhood or that the last classification of the property in the 2004 CZMP was in error." County Motion at 22. This is exactly the problem encountered by the Galassos. The County will not correct its own error by a special hearing, and will not grant a zoning reclassification in the CZMP or Cycle Zoning.

Kotroco, as then Deputy Zoning Commissioner, acknowledged in his Non-Conforming Use Orders that the Property had had a commercial use since prior to 1850. County Motion App. at 7. He furthered acknowledged that there was a question as to the commercial zoning: "There was some question as to the time this building [on 10905 Falls Road] was constructed and where a prior commercial zoning line may have existed. However, it was clear, based on the testimony and evidence presented, that this particular area of the Petitioners' property whereupon this building is situated was historically and traditionally used in furtherance of the Long's business." *Id.* at 11. As discussed in the Statement of Material Facts, in 1947, the Baltimore County Zoning Comissioner granted "e" commercial zoning to the Property. Ex. B. Baltimore County has used the map error described above as a means to deny the Galassos' right to operate the Property in a full commercial manner.

Baltimore County has cited to no code provision in support of its refusal to grant a

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the remainder of the Property.

new hearing to correct the zoning map error. In its motion, it only cites to Code sections relating to requests for changing zoning. The Galassos are entitled to the zoning granted for the Property in 1947, and the denial of this property right is a constitutional violation. Long's CZMP application and the County's denial of the application does not negate the Galassos' due process rights.

B. BALTIMORE COUNTY FAILS TO DEMONSTRATE THAT COUNTS II AND III OF THE COMPLAINT SHOULD BE DISMISSED.

Baltimore County claims that Counts II and III, alleging equal protection and due process violations relating to the Department's in-house "quasi-judicial hearing" are "meritless" based on the County's interpretation of Article 66B section 14.02 and the Baltimore County Code. Baltimore County does not designate whether it is proceeding as a motion to dismiss or a motion for summary judgment. However, this section of Baltimore County's motion ignores the statements of the Complaint, not taking them as truth for purposes of a motion to dismiss. And, to the extent that this section of the County's motion is a motion for summary judgment, there are clear questions of fact preventing summary judgment. Discovery must be conducted before any decision on the merits of these counts of the Complaint.

Baltimore County first fails to explain or provide any legislative history to connect the General Assembly passage of Article 66B, section 14.02 and Baltimore County's 1997 act purportedly permitting the Department's in-house "quasi-judicial proceedings." On this basis alone, the motion should be dismissed and discovery conducted.

It is the Galassos' position that the hearings should not have gone forward in the

Department. Maryland Code Article 66B section 7.02 grants the authority to Baltimore County to issue citations for purported zoning violations, and, after a cited party files a Notice of Intention to Defend, the matter is to be sent to the District Court of Maryland. MD Code Art. 66B §7.02. In situations of inconsistent state and county statutes, apparently at issue here, Maryland courts are to interpret statutes to effectuate the intent of the legislature and in a manner to operate the provisions together to the extent that they are reconcilable:

> [The Court of Appeals] has often stated that the cardinal rule of statutory construction is to effectuate the intent of the legislature. We presume that the legislature intends its enactments "to operate together as a consistent and harmonious body of law." Thus, when two statutes appear to apply to the same situation, this Court will attempt to give effect to both statutes to the extent that they are reconcilable.

State v. Ghajari, 346 Md. 101, 115, 695 A.2d 143, 150 (Md., 1996) (citations omitted). Important to the analysis here is that statutes are to be interpreted to avoid repeal by implication, and that it is "well settled that when two statutes, one general and one specific, are found to conflict, the specific statute will be regarded as an exception to the general statute." *Farmers & Merchants Bank v. Schlossberg*, 306 Md. 48, 63, 507 A.2d 172, 180 (1986). "In such a situation, the specific statute is controlling and the general statute is repealed to the extent of the inconsistency. Thus, when reconciling a specific and a general statute, a court should give effect to the specific statute in its entirety and should retain as much of the general statute as is reasonably possible." *Ghajari*, 346 Md. at 116 (citing to 1A Norman J. Singer, Sutherland Statutes and Statutory Construction §§ 23.06, 23.09, 23.16 (5th ed. 1993)). Thus, Article 66B section 14.02 does not take away the specific provisions of 7.02 and likewise Baltimore County Code section 3-6-201 does not take away the specific provisions of Code section 32-2-604.

Moreover, the Baltimore County Code gives the Zoning Commissioner, not the Department, the authority to conduct hearings under Article 32 of the Code for violations of orders of the Zoning Commissioner. BCC §§ 3-2-1203, 32-3-602(a)(2). The Department contends that it is proceeding under Code section 3-6-201 "County Authority in General." That section of the Code permits injunctive relief and provides procedures after receipt of a citation and written request for a hearing, a procedure not followed in these circumstances.

There are numerous other questions of fact warranting a denial of the County's motion. As detailed in the Galassos' second Motion for a Temporary Restraining Order, actions of the Department support the argument that the Department's hearing process lacks impartiality. Due Process requires an impartial tribunal, which was not present in the Department's hearings. "A fair trial in a fair tribunal is a basic requirement of due process. Fairness of course requires an absence of actual bias in the trial of cases." *In re Murchinson*, 349 U.S. 133, 136 (1955); *see also Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813, 831 (1986) (concurrence) (impartial tribunal is "fundamental" component of due process). The *Murchinson* Court further stated that "our system of law has always endeavored to prevent even the probability of unfairness. To this end no man can be a judge in his own case and no man is permitted to try cases where he has an interest in the outcome. That interest cannot be defined with precision. Circumstances and relationships must be considered." *Murchinson*, 349 U.S. at 136.

Discovery is needed of the Department's relationship with local community associations and the influence of said community associations. In addition, the Department hearing officer, Raymond Wisnom's actions during the January 9, 2007

hearing call his impartiality into question. Moreover, Kotroco has reached out to witnesses against Respondents and sought their assistance in Wisnom's hearings.[6] Thus, by keeping the citation proceedings in-house, the Department wears the hat of investigating alleged violations and then presided over the hearings that were the result of the same investigations. It is simply impossible to guarantee any impartiality in that system. The Galassos are entitled to discovery of these issues, and this motion therefore should be denied.

III. BALTIMORE COUNTY DOES NOT ENJOY ABSOLUTE LEGISLATIVE IMMUNITY ON ITS REFUSAL TO ACKNOWLEDGE THE PROPER ZONING OF THE PROPERTY.

Baltimore County asserts that the Galassos' damages claim should be dismissed because "[t]here is absolute immunity from damage suits challenging the enactment of zoning regulations." County Motion at 25. However, the County's refusal to acknowledge the correct zoning of the Galassos' Property as commercial is not a legislative act. Further, the Department's system of writing citations of amounts too high for the Galassos to be able to post in order to appeal likewise is not part of a legislative act. Thus, the County does not enjoy absolute legislative immunity in this circumstance.

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[6] *See* August 11, 2005 electronic mail, attached hereto as Exhibit D. Baltimore County Code section 3-6-101(d), the title that Petitioner and Wisnom contend the Department's hearings proceeded under, defines "code official" as the Director or the "Director's Designee." This would permit Kotroco the authority to delegate the power to hear violations to Wisnom. In that respect, Kotroco is the "quasi-judicial hearing" judge as much as Wisnom is in that role.

/s/
Donna M.B. King (Fed. Bar No. 13663)
Law Office of Donna M.B. King, LLC
309 West Pennsylvania Avenue
Towson, Maryland 21204
(410) 494-1005
(410) 769-8333
donnambking@verizon.net

Attorney for Plaintiffs Steven and JoAnne Galasso

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of February 2007, I served the foregoing Plaintiff Steven and JoAnne Galassos' Opposition to Baltimore County, Maryland's Motion to Dismiss or, In the Alternative, for Summary Judgment by electronic mail on the following counsel:

James J. Nolan, Jr., Esquire
Assistant County Attorney
400 Washington Avenue
Towson, Maryland 21204

Attorney for Baltimore County, Maryland

Gary W. Kuc
Assistant Attorney General
State of Maryland
200 St. Paul Place
Baltimore, Maryland 21202

Attorney for the State of Maryland

_____/s/_____
Donna M.B. King

2/23/07

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

RECEIVED

FEB 23 2007

ZONING COMMISSIONER

IN RE: PETITION FOR SPECIAL HEARING
10905 – 10911 Falls Road
Lutherville, Maryland 21093

* 07-205-SPH

* * * * * * * * * * * * *

RESPONDENTS' MOTION TO DISMISS

Respondents Steven Galasso and JoAnne Galasso, by and through their attorney, Donna M.B. King, Esquire, hereby move to dismiss the Petition for Special Hearing of Timothy Kotroco, and state as follows:

BACKGROUND

Director Kotroco filed the Petition in this action pursuant to Baltimore County Zoning Regulation ("BCZR") 104.8 to end the non-conforming use on property addressed 10905 through 10911 Falls Road, Lutherville, Maryland (the "Property"). Respondents are owners of the Property. Mr. Kotroco, as Director of the Department of Permits and Development Management (the "Department"), contends that the operations on the Property violate his Orders, as Deputy Zoning Commissioner, dated November 7, 2002 and January 7, 2003, which limited the use of 10905 Falls Road to the repair of trucks, specialty vehicles and antique automobiles (the orders are referred to collectively as the "Nonconforming Use Orders"). Mr. Kotroco did not attend the January 9, 2007 hearing in this matter, but apparently designated Raymond Wisnom, the Department Hearing Officer, to act as Petitioner.

Section 104.8 of the BCZR, enacted by the County Council on September 8,

2006, states that the Zoning Commissioner may terminate a nonconforming use if the Department hearing officer, proceeding under Baltimore County Code Article 3, Title 6, had found a continuing violation on a property:

> After notice and hearing, the Zoning Commissioner may terminate a nonconforming use and require the use to revert to a use allowed under the existing zoning classification if the hearing officer has previously determined, after a code enforcement hearing under Article 3, Title 6 of the Code:
>
> A. That the owner, tenant or entity having control of the land or use is in violation of the County Code, as defined in Article 3, and that the violation is continuing; or
>
> B. That the owner, tenant or entity having control of the land or use is in violation of the County Code for the same offense on multiple occasions.

During the hearing of this matter, Mr. Wisnom claimed that the hearings before him had proceeded under Baltimore County Code Article 3, Title 6, entitled "Code Enforcement," rather than Article 32, Title 3, entitled "Zoning." As presented on January 9, 2007, in the past few years the Department has upheld groups of its citations alleging non-compliance with the Non-Conforming Use Orders. The Department apparently asserts that its in-house "quasi-judicial" proceedings are appropriate based on its position that the zoning of the Property is RC5.

ARGUMENT

I. THE ZONING COMMISSIONER SHOULD DISMISS THIS ACTION BECAUSE ZONING REGULATIONS ARE TO BE APPLIED PROSPECTIVELY, BCZR 104.8 VIOLATES THE CONSTITUTIONAL RIGHT OF DUE PROCESS, PROHIBITION OF EX POST FACTO LAWS, AND THE RIGHT AGAINST PROPERTY TAKINGS.

At the hearing in this matter, Petitioner presented citations and Department orders arising from the citations, all taking place prior to the enactment of section 104.8. These orders cannot be used against Respondents under this new regulation for numerous

reasons relating to retroactive applications and due process. First, the state of Maryland's enabling statutes for zoning apply prospectively, not retroactively. Second, the use of these orders creates a retroactive *ex post facto* law that is in violation of either the *ex post facto* clause of the United States Constitution, the Takings Clause of the Constitution, and/or due process.

A. THE STATE OF MARYLAND'S ZONING ENABLING STATUTE REQUIRES PROSPECTIVE APPLICATION OF ZONING LAWS.

Maryland Code Article 66B provides the power of Baltimore County to enforce zoning. Section 7.01 of the Article, designated "Enforcement and Remedies," states that the "local legislative body may provide by ordinance for the enforcement of this article and of any ordinance enacted or regulation adopted under this article." Md. Code Art. 66B § 7.01. As discussed below, section 104.8 is not authorized by the state of Maryland's enabling statute; however, even if it was a proper exercise of power by the County, it cannot be applied retrospectively. The state of Maryland clearly prohibited a retrospective application by providing in its Historical and Statutory Notes that "this Act shall be construed only prospectively." *Id.* Thus, quite simply, the orders presented by Petitioner at the hearing, entered prior to the enactment of section 104.8, cannot serve as the "continuing" violation that would take away Respondents' property rights.

B. PETITIONER'S SCHEME VIOLATES THE EX POST FACTO CLAUSE, TAKINGS CLAUSE, AND/OR DUE PROCESS.

The *ex post facto* clause of the United States Constitution, Article I, Section 10 states that "[n]o State shall . . . pass any . . . ex post facto Law." Similarly, the Maryland Declaration of Rights, Article 17 also prohibits the passage of *ex post facto* laws: "That retrospective Laws, punishing acts committed before the existence of such Laws, and by

them only declared criminal, are oppressive, unjust and incompatible with liberty; wherefore, no *ex post facto* Law ought to be made; nor any retrospective oath or restriction be imposed, or required." These clauses are viewed generally to have the "same meaning." *Watkins v. Dept. of Public Safety*, 377 Md. 34, 48, 831 A.2d 1079, 1087 (2003).

BCZR 104.8 clearly is an *ex post facto* law in violation of the Constitution and the Maryland Declaration of Rights. Baltimore County may argue that its proceedings are civil, and the *ex post facto* clauses of the Constitution and the Maryland Declaration of Rights apply only to criminal actions. However, section 7.01 of Article 66B states that the violation of the Article is a misdemeanor. Md. Code Art. 66B § 7.01. Even if it were deemed a "civil" law, the *ex post facto* clause would apply. As the Maryland Court of Appeals has stated, "the fact that a particular proceeding or matter is labeled 'civil' rather than 'criminal' does not necessarily remove it from the ambit of the *ex post facto* prohibition. *Anderson v. Dep't of Health and Mental Hygiene*, 310 Md. 217, 225, 528 A.2d 904 (1985) (*citing Burgess v. Salmon*, 97 U.S. (7 Otto) 381, 384-385, 24 L.Ed. 1104 (1878) ("the ex post facto effect of a law cannot be evaded by giving a civil form to that which is essentially criminal") and *Cummings v. The State of Missouri*, 4 Wall. 277, 325, 327-329, 18 L.Ed. 356 (1867)).

If section 104.8 is deemed to be a civil law not within the protection of the *ex post facto* clause, the section still is not enforceable retrospectively because the takings clause of the United States Constitution would prohibit such application. *See Eastern Enterprises v. Appel*, 524 U.S. 498 (1998). The Takings Clause of the Fifth Amendment provides: " [n]or shall private property be taken for public use, without just compensation." Although this is not a "classic taking," it is, as the *Eastern Enterprises* Court stated, an

"invasion by the government," in which the government permanently deprives a citizen of property rights. *Id; see also Lucas v. South Carolina Coastal Council,* 112 S.Ct. 2886 (1992) (striking down a retroactive law via the takings clause when a property owner was left with no viable use of the land). Here, because of the "F" rating given to Falls Road and the ensuing building moratorium that would prevent residential construction, there would no current use of the Property if the non-conforming use is taken away.

Further, in *Eastern Enterprises*, Justice Kennedy in his concurrence determined that the act at issue there, requiring a retrospectively enacted employee fund for the coal industry, violated due process protections of property. Justice Kennedy stated that "due process protection for property must be understood to incorporate the settled tradition against retroactive laws of great severity." *Id.* Justice Kennedy also stated that "retroactive lawmaking is a particular concern because of the legislative temptation to use it as a means of retribution against unpopular groups or individuals." *Id.*

Therefore, whether the *ex post facto* clause, Takings Clause, or due process rights apply, section 104.8 cannot be applied retrospectively to use pre-enactment orders against Respondents to take away their property rights.

II. THIS ACTION SHOULD BE DISMISSED ON THE GROUND THAT BCZR 104.8 IS A PENALTY CLAUSE BEYOND THE AUTHORITY OF THE ZONING REGULATIONS.

Section 104.8 is an improper penalty provision included in the Baltimore County Zoning Regulations. The BCZR sets forth the regulations of the County, and is not a vehicle for remedies. Baltimore County receives its express power to regulate property through Article 25A of the Maryland Code, which provides that counties have the power "to provide by ordinance that a violation of a zoning law or regulation enacted under this

section may be a civil zoning violation. The violation shall be enforced as provided in Article 66B § 7.02 of the Code." However, section 7.02 of Article 66B states that a "person who receives a citation may elect to stand trial for the offense by filing with the zoning official a notice of intention to stand trial." Md. Code Art. 66B § 7.02. This section also states that "After receiving a notice of intention to stand trial, the zoning official *shall forward* the notice to the District Court having venue, with a copy of the citation." *Id.* (emphasis added).

Baltimore County contends that section 14.02 of Article 66B also allows "quasi-judicial hearings" within its Department. Section 14.02 applies to "zoning regulations," not alleged violations of non-conforming use orders. Regardless, even if section 14.02 applied, no where do these enabling statutes provide the authority for the BCZR to include penalty provisions.

The Maryland Court of Appeals has recognized that "[t]he Baltimore County Zoning Enabling Act, enacted by the Maryland Legislature in 1941, authorized the County Commissioners of Baltimore County to adopt a comprehensive plan of zoning regulations and restrictions affecting the erection, alteration and use of buildings and land in Baltimore County for trade, residence, industry and other purposes." *Temminck v. Board of Zoning Appeals for Baltimore County*, 205 Md. 489, 109 A.2d 85 (1954). The comprehensive plan is not to contain a penalty provision.

In fact, the BCZR itself states that the authority for its adoption is found in "the Annotated Code of Maryland, the Baltimore County Charter and the Baltimore County Code. See, particularly, Article 32, Title 3 (Zoning) of the Baltimore County Code, 2003." BCZR Contents of Code. Importantly, the BCZR states that Code Article 32

provides penalties: "Article 32, Title 3, Subtitle 6, of the Code provides penalties for violations of these regulations." *Id.* Thus, it is Article 32, Title 3, Subtitle 6, wherein cited parties are entitled to a hearing in the District Court of Maryland for Baltimore County, that is to set forth penalties, and the County's insertion of 104.8 is violative of the purpose and authority of the zoning regulations.

III. THE ZONING COMMISSIONER SHOULD DISMISS THIS ACTION BECAUSE BCZR 104.8 IS NOT AUTHORIZED BY THE STATE OF MARYLAND'S ENABLING STATUTE.

Mr. Kotroco's petition should not proceed because the Baltimore County Council went beyond the power provided by the State of Maryland when it enacted section 104.8. Maryland Article 25A permits Baltimore County to "provide by ordinance that a violation of a zoning law or regulation enacted under this section may be a civil zoning violation. The violation shall be enforced as provided in Article 66B, § 7.02 of the Code." Md. Code Art. 25A § 5(X)(ii). Section 7.02 of Maryland Article 66B provides a mechanism that when a party receiving a zoning citation files a notice of intention to defend, the matter is to be sent to the District Court of Maryland for the particular county. Md. Code Art. 66B § 7.02. Baltimore County contends that section 14.02 of Article 66B also allows "quasi-judicial hearings" within its Department. Section 14.02 states that "[i]n addition to the jurisdiction granted in § 7.02 of this article, the legislative body of Baltimore County may provide by ordinance for an administrative proceeding to enforce its zoning regulations . . . The ordinance may include the authority to impose civil fines and penalties for zoning violations." Baltimore County contends that this provision allows its in-house proceedings under Code section 3-6-201.

Regardless of Baltimore County's interpretation of Article 66B, section 14.02, no where do these enabling statutes grant to Baltimore County the right to take away, through the Zoning Commissioner under the requirements of BCZR 104.8, a nonconforming use, granted as a result of hearings before Petitioner Kotroco as the then Deputy Zoning Commissioner. Baltimore County cannot go beyond the bounds of Maryland's enabling statute, and this action should be dismissed on that basis.

IV. THIS ACTION SHOULD BE DISMISSED BECAUSE PETITIONER KOTROCO'S EVIDENCE CONSISTS OF CITATIONS IMPOSED UPON RESPONDENTS AS A RESULT OF HEARINGS AND PROCEDURES IN VIOLATION OF THE CONSTITUTION AND MARYLAND DECLARATION OF RIGHTS.

At the hearing of this matter, Petitioner Kotroco and Mr. Wisnom presented sets of citations, and orders of Mr. Wisnom upholding the citations. They presented the orders as proof of the alleged continuous violation on the Property. Such orders should be considered null and void because they, and the process created by Baltimore County, is violative of the due process protections of the United States Constitution and the Maryland Declaration of Rights. Most specifically, as discussed below, Respondents and lessees of the Property have been denied the right to an impartial tribunal, and have been denied the right to appeal. Further, Baltimore County has not allowed a hearing on the proper zoning of the Property, which is commercial zoning.

The Court of Special Appeals has stated that "'[o]nce it is determined that due process applies, the question remains what process is due. For all its consequence, due process has never been, and perhaps can never be, precisely defined. Unlike some legal rules . . . due process is not a technical conception with a fixed content unrelated to time,

place and circumstances. Rather, the phrase expresses the requirement of fundamental fairness.'" *In re Adoption/Guardianship*, 731 A.2d 467, 478-79 (1999) (*quoting Morrissey v. Brewer*, 408 U.S. 471, 481 (1972) and *Lassiter v. Department of Social Services*, 452 U.S. 18, 24 (1982)). Due Process requires an impartial tribunal, which was not present here in the Department's in-house "quasi-judicial hearing." "A fair trial in a fair tribunal is a basic requirement of due process. Fairness of course requires an absence of actual bias in the trial of cases." *In re Murchinson*, 349 U.S. 133, 136 (1955); *see also Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813, 831 (1986) (concurrence) (impartial tribunal is "fundamental" component of due process). The *Murchinson* Court further stated that "our system of law has always endeavored to prevent even the probability of unfairness. To this end no man can be a judge in his own case and no man is permitted to try cases where he has an interest in the outcome. That interest cannot be defined with precision. Circumstances and relationships must be considered." *Murchinson*, 349 U.S. at 136.

The Department's process has lacked impartiality. As the Zoning Commissioner witnessed, Mr. Wisnom, the judge in the "quasi-judicial hearings" that led to the orders used against Respondents in this action was the witness against the Respondents here. During the hearing, Mr. Wisnom sat at the Petitioner's table and assisted the attorney for Baltimore County, James Nolan, in the prosecution of this matter. Mr. Kotroco, as head of the Department, delegated the duty to Mr. Wisnom to hear alleged zoning violations, and further delegated his role as Petitioner in this matter. Mr. Kotroco has reached out to witnesses against Respondents and sought their assistance in Mr. Wisnom's hearings. [1]

[1] *See* August 11, 2005 electronic mail, attached hereto as Exhibit A. Baltimore County Code section 3-6-101(d), the title that Petitioner and Mr. Wisnom contend the Department's hearings proceeded under, defines "code official" as the Director or the "Director's Designee." This would permit Mr. Kotroco the authority to delegate the power to hear violations to Mr. Wisnom. In that respect, Mr. Kotroco is the

Thus, by keeping the citation proceedings in-house, Petitioner has worn the hat of investigating alleged violations and then presided over the hearings that were the result of the same investigations. It is simply impossible to guarantee any impartiality in that system.

Further, the hearings should not have gone forward in the Department. The Baltimore County Code gives the Zoning Commissioner the authority to conduct hearings under Article 32 of the Code for violations of orders of the Zoning Commissioner. BCC §§ 3-2-1203, 32-3-602(a)(2). The Department contends that it is proceeding under Code section 3-6-201 "County Authority in General." That section of the Code permits injunctive relief and provides procedures after receipt of a citation and written request for a hearing, a procedure not followed in these circumstances.

Compounding the violation of due process is Baltimore County's requirement that aggrieved parties post the entire amount of the violation in order to appeal to the County Board of Appeals. Coupled with the Department's pattern of citations in the tens of thousands of dollars, amounts too high for Respondents to post, this provision violates a party's right to appeal.

Baltimore County also has not permitted a new hearing, requested by Respondents based on historical research of the zoning of the Property. In 1947, Zoning Commissioner Charles Doring granted "e" commercial zoning to the Property. Petition for Zoning Reclassification attached hereto as Exhibit B. This zoning was never changed by any subsequent hearing. Apparently there was a map error in the 1950s, which was never known to the Long family, former owners of the Property. Presented with this

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"quasi-judicial hearing" judge as much as Mr. Wisnom is in that role.

information, Baltimore County has not granted a new hearing. *See* December 6, 2005 letter from Arnold "Pat" Keller, attached hereto as Exhibit C.

The above presents issues to be decided by the United States District Court for the District of Maryland in *Galasso, et ux. v. Baltimore County*, Case No. 06-2750. Respondents respectfully request that if the Zoning Commissioner determines that the above arguments do not warrant dismissal of this action, then the Zoning Commissioner consider staying this matter pending a ruling of the federal court on the due process violations.

CONCLUSION

For the reasons set forth above, Respondents Steven Galasso and JoAnne Galasso respectfully request that the Zoning Commissioner dismiss this action.

Donna M.B. King
Law Office of Donna M.B. King, LLC
309 West Pennsylvania Avenue
Towson, Maryland 21204
(410) 494-1005

Attorney for Respondents Steven Galasso and JoAnne Galasso

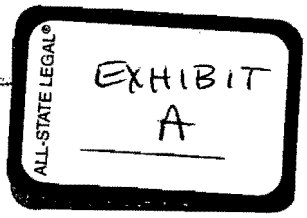
CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of February 2007, I served the foregoing Motion to Dismiss by First Class mail to the following counsel:

James J. Nolan, Jr., Esquire
Assistant County Attorney
400 Washington Avenue
Towson, Maryland 21204

Attorney for Petitioner Timothy Kotroco

Donna M.B. King



From: "Robert Williams" <RWilliams2@mtamaryland.com>
To: <jnolan@co.ba.md.us>, <TKotroco@co.ba.md.us>, <sweetpg@peoplepo.com>
Date: 8/17/2005 8:36:36 AM
Subject: Re: Galasso

Tim,

Mr. Galasso continues to violate the order that you have issued and the self imposed injunction that was issued 5 weeks ago. Mr. Paul Miller has learned and passed on to me that the Balt. Co. Inspector who visited the site on Monday was not permitted to go inside the fenced in area or the building. Also, the 14 foot high and 40 long Tractor Trailer continues to sit in a joint use driveway. I have turned over all the up dated information and photos to Mr. Jim Nolan office for review and it clearly shows that Mr..Galasso continues to violate the Injunction and the Order.

What I am able to see from my house -Modifications to the building are being pursued - Did Galasso obtain permits to do so?

Also, wreck vehicles are being brought in and placed inside the shop area quickly before any one can take a picture. Another vehicle (Maybe a Rental Car) is leaving after the wreck vehicle is parked inside the shop area.

Mr. Galasso also is parking wreck vehicles and Psgr vehicles out of site from the general view when you come down and look through the fence in area.

Galasso Employees are working all hours of the night in the shop area.

I have also witnessed Mr. Galasso on site giving orders and directing a crew of 4 employees.

Please help me understand why the Baltimore County continues to turn over County Psgr. Vehicles to Galasso to paint on this site when he is violation?

Could you please let me know what actions the County will be pursuing next against the Longs and Galasso?

Thank you for your time and effort in this matter

Robert L. Williams
10901 Falls Road
Lutherville, Md. 21093

>>> "Timothy Kotroco" <TKotroco@co.ba.md.us> 8/11/2005 9:36:57 AM >>>
Paul & Robert: Please continue to keep Jim Nolan advised of current developments. You all are our best "eyes" in the community. We will continue to send an inspector, but as you know, he doesn't always get to see what is going at that particular time of his inspection. Thanks for your help. Tim

NOTICE: DO NOT FILL IN ANY PART OF THIS PETITION, SIMPLY SIGN IN INK ON LINES CHECKED AT BOTTOM.

#793

Petition for Zoning Re-Classification

0793

To The Zoning Commissioner of Baltimore County —

I, or we, Charles Shaneybrook, et al, legal owner s of the property situate on east side of Falls Road, Brooklandville, in the 8th District of Balto. Co., beginning 990' north of Valley Road, thence north, on said side of Falls Road, 300' with a rectangular depth easterly of 150',

MAP #3-A E

hereby petition that the zoning status of the above described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an "A" Residence zone to an "E" Commercial zone.

for the following reasons:

Character of use for which above property is to be used: Approved Commercial Use

Size and height of building: ____ depth ____ feet; height ____ ft.

Front and side set backs of building from street lines: front ____ feet; side ____ feet.

Property to be posted as prescribed by Zoning Regulations.

I or we, agree to pay expenses of above re-classification, advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Florence L. Long

Ellen L. Foell

Charles Shaneybrook

Bessie Shaneybrook

Legal Owner

Address: Brooklandville Md.

ORDERED by the Zoning Commissioner of Baltimore County, this ____ day of ____

ALL-STATE LEGAL®

EXHIBIT B

EXHIBIT C

ALL-STATE LEGAL®

Office of Planning

401 Bosley Avenue, Suite 406
Towson, Maryland 21204
Tel: 410-887-3211 • Fax: 410-887-5862
E-mail: planning@co.ba.md.us

Baltimore County

Arnold F. 'Pat' Keller, III, Director

December 6, 2005

William Long
10911 Falls Road
Lutherville, MD 21093

Re: **Falls Road Property**
District 08 Account Number 2000011831; and
District 08 Account Number 2000011832

Dear Mr. Long:

The Office of Planning has received your recent request to correct the zoning on the above referenced properties. My staff has carefully reviewed your chronology of the situation and the historical zoning maps you presented as to why the property in question should be zoned BL. The information appears sound and correct. However, the failure to include the 'E' commercial area that previously existed on the 1945 zoning map on the 1955 zoning map and all successive zoning maps was not part of the Comprehensive Zoning Map Process ("CZMP").

Section 32-3-321 et seq of the Baltimore County Code ("Code") is intended to address situations in which there is an error on the zoning maps that does not accurately reflect the zoning classifications enacted by the County Council during any CZMP. However, this map correction process cannot be used to address your concerns because the scenario you described occurred before the County instituted the CZMP.

There are other avenues available to change the zoning on your property. You may pursue a change through the standard CZMP, which is described in the Code under Sections 32-3-211 through 32-3-225; or you may wish to pursue a zoning reclassification through Cycle Zoning as outlined in the Code under Sections 32-3-501 through 32-3-517. If you have any questions about this, please do not hesitate to contact Jeff Mayhew of my staff at 410.887.3480.

Sincerely yours,

Pat Keller

Arnold F. 'Pat' Keller, III
Director

AFK:JMH:lm

c: Hon. Kevin Kamenetz, Second District Councilman
Nancy C. West, Assistant County Attorney, Law Office
Michael Field, Assistant County Attorney, Law Office
Jeff Long, Deputy Director, Office of Planning

Visit the County's Web

Post-it® Fax Note 7671	Date 1/4/06	# of pages ▶ 1
To Debbie	From Jeff Mayhew	
Co./Dept.	Co.	
Phone #	Phone #	
Fax # 410-296-2523	Fax #	

2/23/07

In re:	*	**BEFORE THE**
PETITION FOR SPECIAL HEARING	*	
E/S Falls Road, 930' S Center Line of	*	**ZONING COMMISSIONER**
Seminary Avenue	*	
8th Election District	*	**FOR**
3rd Councilmanic District	*	
(10905-10911 Falls Road)	*	**BALTIMORE COUNTY**
RC5 Zoning	*	
	*	**Case No. 07-205-SPH**
	*	

****

RECEIVED
FEB 23 2007
ZONING COMMISSIONER

PETITIONER'S BRIEF IN SUPPORT
OF PETITION FOR SPECIAL HEARING

Petitioner, Timothy M. Kotroco, Director of the Baltimore County Department of Permits and Development Management, by undersigned counsel, pursuant to Rule of Practice and Procedure 4.E, respectfully submits this Brief in support of his Petition for a Special Hearing.

STATEMENT OF FACTS

At the January 9, 2007 hearing, Petitioner submitted 10 Exhibits and produced the testimony of the Raymond S. Wisnom, Jr., the Code Enforcement Hearing Officer. The testimony and Exhibits showed that in 2002, William E. Long and Carroll E. Long (the Longs) were the legal owners of 10905-10911 Falls Road (the Property). The Longs and Steven Galasso, d/b/a Lutherville Collision & Truck Center, filed a Petition for Special Hearing in 2002 seeking, among other things, to obtain approval for the continuation of a nonconforming use at the Property, which was zoned RC 5.

Following a hearing on the Petition, in his November 7, 2002 Findings of Fact and Conclusions of Law (Petitioner Exhibit 5, Exhibit 5 therein), the Deputy Zoning

Commissioner found that the use of the subject Property by Steven Galasso and Lutherville Collision & Truck Center was beyond the scope of the nonconforming use as established by the Long family on the subject site. Accordingly, it was determined that it was not appropriate for Lutherville Collision & Truck Center to continue to operate a high volume passenger body shop on the subject Property. The business known as the "Valley Services Company," which had been operated by the Long family since 1849, was permitted to continue to operate from the Property. The Deputy Zoning Commissioner ordered, however, the Mr. Galasso's current use of the Property was not to be considered an intensification of the historical nonconforming use and therefore, must cease and desist immediately.

By his Order on Motion for Reconsideration entered on January 7, 2003 (Petitioner Exhibit 5, Exhibit 5 therein), the Deputy Zoning Commissioner clarified his earlier findings and allowed the Long family and the Valley Services Company to also repair and paint antique and classic automobiles on the Property in addition to the approval previously granted in the Order dated November 7, 2002.

Following the entry of the aforesaid Orders by the Deputy Zoning Commissioner, Steven Galasso and various entities controlled by him have continued to illegally operate a passenger vehicle body shop on the Property. The Longs permitted such illegal use.

In an attempt to stop the illegal operation of the passenger vehicle body shop, Baltimore County instituted 4 separate Code Enforcement proceedings against Steven Galasso, the Longs and other involved entities. It issued a total of 19 Citations (Petitioners Exhibit 6). The Code Enforcement Hearing Officer entered numerous Orders

ordering that the illegal activity cease and desist and assessing civil penalties to no avail (Petitioner's Exhibit 5, Exhibits 9, 10, 11 & 12 therein).

By deeds dated March 16, 2006 and April 6, 2006, the Longs purported to convey ownership of the Property to Steven Galasso and his wife, JoAnne Galasso. The consideration recited for the purchase of the Property was $60,443.02. Petitioner believes that the actual value of the Property far exceeds the recited consideration and that the transaction was fraudulent. Nevertheless, the Galassos became the record owners of the entire Property as of April 6, 2006.

Effective September 8, 2006, the Baltimore County Council enacted new Section 104.8 of the B.C.Z.R. as Bill 105-06. New section 104.8 provides as follows:

> After notice and hearing, the Zoning Commissioner may terminate a nonconforming use and require the use to revert to a use allowed under the existing zoning classification if the Hearing Officer has previously determined, after a Code Enforcement Hearing under Article 3, Title 6 of the Code:
>
> A. That the owner, tenant, having control of the land or use is violation of the County Code, as defined in Article 3, and that the violation is continuing; or
>
> B. That the owner, tenant, or entity having control of the land or use is in violation of the County Code for the same offense on multiple occasions.

(Petitioner's Exhibit 5, Exhibit 1 therein)

Pursuant to Section 104.8, Petitioner seeks termination of the nonconforming use at the Property and its reversion to a use allowed under the existing RC 5 zoning classification based upon the fact that the Code Enforcement Hearing Officer has previously determined, after multiple code enforcement hearings under Article 3, Title 6

of the Baltimore County Code (a) that the owner, tenant or entity having control of the land or use is in violation of the County Code as defined in Article 3, and that the violation is continuing; and (b) that the owner, tenant or entity having control of the land or use is in violation of the County Code for the same offense on multiple occasions.

In addition, the evidence showed that the Longs discontinued their Valley Services Company nonconforming use business and permitted instead the illegal use of the Property as a passenger vehicle service garage. The evidence also showed that the Longs abandoned and discontinued their nonconforming use for a period of one year or more.

ARGUMENT

Introduction

At the hearing, Petitioner's counsel argued that Bill 105-06 was invalid because (1) it is an *ex post facto* law in violation of Article 17 of the *Maryland Declaration of Rights*; (2) it violates the takings clause and due process clauses of the *Maryland Declaration of Rights*; (3) it is beyond the authority granted in the Zoning Regulations; and (4) *Md. Ann. Code,* Art. 66B does not enable the termination of a nonconforming use.

As will be discussed below, none of these arguments has any legal merit.

1. *Ex Post Facto*

Bill 105-06 does not violate Article 17 of the *Maryland Declaration of Rights*, because constitutional prohibitions against passage of *ex post facto* laws apply only to criminal or penal matters or laws, and not to civil matters or laws. Such constitutional prohibitions do not apply or have reference to laws which affect or regulate civil or private rights or civil remedies. *M.L.E., Constitutional Law*, §§ 156 and 157; *see, e.g.,*

Braverman v. Bar Association, 209 Md. 328, 121 A.2d 473, *cert. denied*, 352 U.S. 830, 77 S. Ct. 44 (1956).

Bill 105-06 relates to civil or private rights or remedies. Therefore, the *ex post facto* clause does not apply to it.

2. Due Process/Takings Clause

If Petitioner understands Respondents' second argument correctly, they are claiming that terminating the nonconforming use pursuant to Bill 105-06 would violate Article 24 of the *Maryland Declaration of Rights* as a taking of property without just compensation. This argument ignores well-settled law.

Although government interference by regulation of the use of private property can constitute a *de facto* or constructive taking, there is no taking in the constitutional sense unless the interference is so substantial that the property is rendered worthless or useless. *Joint Venture v. Smith*, 452 F. Supp. 455 (D. Md. 1978). It is not enough that a governmental regulation deprives a property owner of the most profitable use of the property, or that the regulation causes a severe decline in the property's value. Before a court can conclude that there has been an unconstitutional taking of property, the government regulation must deprive the landowner of all reasonable uses of his land. *Id.* Said another way, to constitute a taking in the constitutional sense so that the government must pay compensation, the government must deprive the owner of all beneficial use of the property. *Pitsenberger v. Pitsenberger*, 287 Md. 20, 410 A.2d 1052, *appeal dismissed*, 449 U.S. 807, 101 S. Ct. 52 (1980).

In this case, the termination of the nonconforming use would not deprive the Respondents of all reasonable and beneficial uses of the Property. They would still be able to put the Property to all the uses permitted in an R.C. 5 Zone. Thus, there is no taking of Property in the constitutional sense and Respondents' second argument fails.[1] *See Symonds v. Bucklin*, 197 F. Supp. 682 (D. Md. 1961) (Zoning regulations, according to comprehensive plan and in general public welfare, may place restrictions on use of property, even though restrictions result in serious financial loss to owner).

3. Authority Granted in Zoning Regulations

The Respondents' third argument is that Bill 105-06 is beyond the authority granted in the Zoning Regulations. This argument, as stated, does not make any sense. If Respondents are arguing that the County Council did not have the authority to enact Bill 105-06 as a Zoning Regulation, that argument is patently frivolous.

Md. Ann. Code, Article 25A, § 5, provides as follows:

> **§ 5. Enumeration**
>
> The following enumerated express powers are granted to and conferred upon any county of counties which hereafter form a charter under the provisions of Article XI-A of the Constitution, that is to say:
>
> (A) Local Legislation
>
> (1) To enact local laws for the county, including the power to repeal or amend local laws of the county enacted by the General Assembly upon the matters covered by the express powers in this article.

[1] Petitioner also notes that the enactment of Bill 105-06 is a reasonable exercise of the police power to protect the public health, safety and welfare from illegal operations that have continued at the property for over 5 years.

(2) To provide for the enforcement of all ordinances, resolutions, bylaws and regulations adopted under the authority of this article…

….

(X) Planning and Zoning

(1)(i) To enact local laws, for the protection and promotion of public safety, health, morals, and welfare, relating to zoning and planning, including:

1. The power to provide for the right of appeal of any matter arising under such planning and zoning.

2. The power to establish a program for the transfer of development rights.

(ii) To provide by ordinance that a violation of a zoning law or regulation enacted under this section may be a civil zoning violation. The violation shall be enforced as provided in Article 66B, § 7.02 of the Code.

Pursuant to Section 301 of the *Baltimore County Charter*, the "legislative branch of county government shall be composed of the county council and the officers and employees thereof." Section 306 of the *Charter* provides for the legislative powers of the county council:

> The county council shall be the elected legislative body of the county and is vested with all the law-making power thereof, including all such powers as may heretofore have been exercised by the General Assembly of Maryland and transferred to the people of the county by the adoption of this Charter. The county council shall also have and may exercise all legislative powers heretofore vested in the county commissioners of Baltimore County, including the power to accept gifts and grants. The county council may enact public local laws for the county and is authorized to repeal or amend such local laws as have heretofore been enacted by the General Assembly of Maryland upon matter governed by the Express Powers Act of 1918 (Article 25A of the Annotated Code of Maryland, 1957 Edition) as now in force or hereafter amended. The county council may also provide for the enforcement of

> all ordinances, resolutions, bylaws and regulations adopted under the authority of law by fines, penalties and imprisonment, within the limits prescribed by law.

In light of the above provisions, the Respondents' argument that the County Council did not have the authority to enact Bill 105-06 is patently frivolous. *See Holiday Point Marina Partners v. Anne Arundel County*, 707 A.2d 829, 349 Md. 190 (1998) (County had authority, under Express Powers Act, to enact zoning ordinance limiting number of boat slips and situs of marine facilities, even though ordinance took into account the health of shellfish beds which were located in state's tidal waters).

4. Article 66B

Respondents' final argument is that *Md. Ann. Code, Article 66B*, does not enable the termination of a nonconforming use. This argument is nonsensical and deliberately misleading. When it enacted Bill 105-06, the County Council was not acting pursuant to Article 66B. It was acting pursuant to the Express Powers Clause and the Charter as noted in Section 3 above. Moreover, Article 66B has limited application to chartered counties. *See* Article 66B, § 1.02. Section 7.02 of Article 66B authorizes the imposition of civil penalties by chartered counties for zoning violations. Section 14.02 specifically applies to Baltimore County and authorizes the administrative hearing process before the Code Enforcement Hearing Officer to enforce the County zoning regulations. Article 66B has no connection to the enactment of Bill 105-06.

5. Other Grounds for Termination

Section 104.1 of the BCZR provides as follows:

Section 104, Nonconforming Uses [BCZR 1955]

> 104.1 A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate. [Bill Nos. 18-1976; 124-1991]

In this case, the evidence shows that the original nonconforming use of the Property for a low volume operation was changed in 2001 to a high volume passenger vehicle body shop. The evidence also showed that the Longs abandoned and discontinued their nonconforming use.

At the April 29, 2006 Code Enforcement Hearing, William Long testified. The Final Order summarized his testimony as follows:

> Testimony and evidence shows that the property continues to be in violation of the Deputy Zoning Commissioner's Order rendered in Case #02-419-SPH. Mr. William E. Long testified during this recorded proceeding to continuing to repair and paint ordinary passenger vehicles as a condition of continuing to be a viable enterprise. He went on to say that the painting and modification of specialty vehicles such as ambulances, fire trucks, military vehicles, tractor cabs, classic and antique vehicles has diminished to a point that the business cannot be sustained without resorting to performing repairs and painting or ordinary passenger vehicles and light trucks. Mr. Long stated that today's fire engines and over the road tractors cannot fit in his building as the size of such apparatus has increased. Mr. Long stated that he was the owner of Valley Services, Inc. and that it was a sole proprietorship held company.
>
> Mr. Long stated that he is greatly disturbed by the actions of the County and cannot understand why he is not allowed to continue business as usual. Mr. Long stated there are no provisions for the

evolution of business taken into consideration when decisions are made regarding the use of the property.

Mr. Long testified that he worked with Mr. Galasso on several vehicles. Each vehicle he worked on was described as a specialty vehicle with problems he was able to repair. Mr. Long did not testify to working on ordinary vehicles. However, he did acknowledge that ordinary passenger vehicles are worked on as stated earlier because the business cannot survive unless ordinary passenger vehicle repair business takes place.

(Petitioners' Exhibit 5, Exhibit 10 therein, page 46.)

In addition, the Galassos' took title to the Property in March of 2006 and have continued to operate the passenger vehicle body shop.

As a result of the change of use and the abandonment or discontinuance of the nonconforming use, the Zoning Commissioner should declare the nonconforming use terminated.

CONCLUSION

Petitioner respectfully requests that the Zoning Commissioner terminate the nonconforming use at 10905-10911 Falls Road pursuant to Sections 104.1 and 104.8 of the B.C.Z.R.

Respectfully submitted,

JOHN E. BEVERUNGEN
County Attorney

JAMES J. NOLAN, JR.
Assistant County Attorney
400 Washington Avenue
Towson, MD 21204
410-887-4420
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23d day of February 2007, Petitioner's Brief in Support of Petition for Special Hearing was sent via First Class U.S. Mail, postage prepaid, to:

Donna M.B. King, Esquire
Law Office of Donna M.B. King, LLC
309 West Pennsylvania Avenue
Towson, Maryland 21204

Attorney for Respondents

JAMES J. NOLAN, JR.

IN RE: PETITION FOR SPECIAL HEARING	*	**BEFORE THE**
E/s Falls Road, 930' S		
Center line of Seminary Avenue	*	**ZONING COMMISSIONER**
8th Election District		
3rd Councilmanic District	*	**FOR**
(10905-10911 Falls Road)		
RC5 Zoning	*	**BALTIMORE COUNTY**
	*	
	*	

* * * * * * * * *

ORDER

The Petition for Special Hearing of Timothy M. Kotroco, Director of the Baltimore Count Department of Permits and Development Management, having been read and considered, it is hereby

ORDERED, that a Special Hearing on said Petition be scheduled on the 9th day of January, 2007 to determine whether to terminate the nonconforming use at 10905-10911 Falls Road, Lutherville, MD 21093, pursuant to Section 104.8 of the B.C.Z.R.; and it is further

ORDERED, that notification of said hearing be sent to the following owners, tenants, and/or persons and entities having control and use of 10905-10911 Falls Road, Lutherville, Maryland 21093:

Steven L. Galasso
8509 Thornton Road
Lutherville, Maryland 21093

JoAnne Galasso
8508 Thornton Road
Lutherville, Maryland 21093

Carroll Edward Long
1619 Alston Road
Towson, Maryland 21204

Wilham Edward Long
1619 Alston Road
Towson, Maryland 21204

Specialty Automotive, LLC
Debbie Jones, Resident Agent
10907 Falls Road
Lutherville, Maryland 21093

Automotive Emporium, Inc.
JoAnne Galasso, Officer/
Director/Shareholder/Resident Agent
8509 Thornton Road
Lutherville, Maryland 21093

Valley Services, Inc.
JoAnne Galasso, Officer/
Director/Shareholder/Resident Agent
8509 Thornton Road
Lutherville, Maryland 21093

_____
Zoning Commissioner for Baltimore County

Date : _____

IN RE: PETITION FOR SPECIAL HEARING	*	**BEFORE THE**
E/s Falls Road, 930' S		
Center line of Seminary Avenue	*	**ZONING COMMISSIONER**
8th Election District		
2nd Councilmanic District	*	**FOR**
(10905-10911 Falls Road)		
RC5 Zoning	*	**BALTIMORE COUNTY**
	*	
	*	

* * * * * * * * *

ORDER

The Petition for Special Hearing of Timothy M. Kotroco, Director of the Baltimore Count Department of Permits and Development Management, having been read and considered, it is hereby

ORDERED, that a Special Hearing on said Petition be scheduled on the 3rd day of January, 2007 to determine whether to terminate the nonconforming use at 10905-10911 Falls Road, Lutherville, MD 21093, pursuant to Section 104.8 of the B.C.Z.R.; and it is further

ORDERED, that notification of said hearing be sent to the following owners, tenants, and/or persons and entities having control and use of 10905-10911 Falls Road, Lutherville, Maryland 21093:

Steven L. Galasso
8509 Thornton Road
Lutherville, Maryland 21093

JoAnne Galasso
8508 Thornton Road
Lutherville, Maryland 21093

Carroll Edward Long
1619 Alston Road
Towson, Maryland 21204

Wilham Edward Long
1619 Alston Road
Towson, Maryland 21204

Specialty Automotive, LLC
Debbie Jones, Resident Agent
10907 Falls Road
Lutherville, Maryland 21093

Automotive Emporium, Inc.
JoAnne Galasso, Officer/
Director/Shareholder/Resident Agent
8509 Thornton Road
Lutherville, Maryland 21093

Valley Services, Inc.
JoAnne Galasso, Officer/
Director/Shareholder/Resident Agent
8509 Thornton Road
Lutherville, Maryland 21093

_____
Zoning Commissioner for Baltimore County

Date : _____

IN RE: PETITION FOR SPECIAL HEARING **E/s Falls Road, 930' S** **Center line of Seminary Avenue** **8th Election District** **3rd Councilmanic District** **(10905-10911 Falls Road)** **RC5 Zoning**	*	**BEFORE THE** **ZONING COMMISSIONER** **FOR** **BALTIMORE COUNTY**

* * * * * * * * *

PETITION FOR SPECIAL HEARING

Timothy M. Kotroco, Director of the Baltimore County Department of Permits and Development Management, pursuant to Sections 500.6 and 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), hereby petitions for a Special Hearing. The grounds of the Petition are as follows:

1. In 2002, William E. Long and Carroll E. Long (the Longs) were the legal owners of 10905-10911 Falls Road (the Property). The Longs and Steven Galasso, d/b/a Lutherville Collision & Truck Center, filed a Petition for Special Hearing in 2002 seeking, among other things, to obtain approval for the continuation of a nonconforming use at the Property, which was zoned RC 5.

2. Following a hearing on the Petition, in his November 7, 2002 Findings of Fact and Conclusions of Law (Exhibit 1), the Deputy Zoning Commissioner found that the use of the subject Property by Steven Galasso and Lutherville Collision & Truck Center was beyond the scope of the nonconforming use as established by the Long family on the subject site. Accordingly, it was determined that it was not appropriate for Lutherville

07-205-SPH

Collision & Truck Center to continue to operate a high volume passenger body shop on the subject Property. The business known as the "Valley Services Company," which had been operated by the Long family since 1849, was permitted to continue to operate from the Property. The Deputy Zoning Commissioner ordered, however, the Mr. Galasso's current use of the Property was not to be considered an intensification of the historical nonconforming use and therefore, must cease and desist immediately.

3. By his Order on Motion for Reconsideration entered on January 7, 2003 (Exhibit 2), the Deputy Zoning Commissioner clarified his earlier findings and allowed the Long family and the Valley Services Company to also repair and paint antique and classic automobiles on the Property in addition to the approval previously granted in the Order dated November 7, 2002.

4. Since the entry of the aforesaid Orders by the Deputy Zoning Commissioner, Steven Galasso and various entities controlled by him have continued to illegally operate a passenger vehicle body shop on the Property. The Longs have permitted such illegal use.

5. In an attempt to stop the illegal operation of the passenger vehicle body shop, Baltimore County has instituted 4 separate Code Enforcement proceedings against Steven Galasso, the Longs and other involved entities. The Code Enforcement Hearing Officer has entered numerous Orders assessing civil penalties to no avail.

6. The County also initiated an action for injunctive relief in the Circuit Court for Baltimore County. On April 17, 2006, Judge Judith Ensor entered the attached Order (Exhibit 3), finding Steven Galasso and Automotive Emporium, Inc. in contempt of court

and ordering them to pay a fine of $14,600.00 on or before August 16, 2006. Said fine has not been paid and the illegal operation continues up to the date of the filing of this Petition.

7. By deeds dated March 16, 2006 and April 6, 2006, the Longs purported to convey ownership of the Property to Steven Galasso and his wife, JoAnne Galasso. The consideration recited for the purchase of the Property was $60,443.02. Your petitioner believes that actual value of the Property far exceeds the recited consideration and that the transaction was fraudulent. Nevertheless, the Galassos are currently the record owners of the Property.

8. Effective September 8, 2006, the Baltimore County Council enacted new Section 104.8 of the B.C.Z.R (Exhibit 4). Section 104.8 provides as follows:

> "After notice and hearing, the Zoning Commissioner may terminate a nonconforming use and require the use to revert to a use allowed under the existing zoning classification if the Hearing Officer has previously determined, after a Code Enforcement Hearing under Article 3, Title 6 of the Code:
>
> A. That the owner, tenant, having control of the land or use is violation of the County Code, as defined in Article 3, and that the violation is continuing; or
>
> B. That the owner, tenant, or entity having control of the land or use is in violation of the County Code for the same offense on multiple occasions."

9. Pursuant to Section 104.8, Petitioner seeks termination of the nonconforming use at the property and its reversion to a use allowed under the existing RC 5 zoning classification based upon the fact that the Code Enforcement Hearing Officer has previously determined, after multiple code enforcement hearings under Article 3, Title 6 of

the Baltimore County Code (a) that the owner, tenant or entity having control of the land or use is in violation of the County Code as defined in Article 3, and that the violation is continuing; and (b) that the owner, tenant or entity having control of the land or use is in violation of the County Code for the same offense on multiple occasions.

WHEREFORE, the Petitioner respectfully requests that the Zoning Commissioner enter the attached Order scheduling a Special Hearing to determine whether to terminate the nonconforming use at 10905-10911 Falls Road under Section 104.8 of the B.C.Z.R. and providing notice of said hearing to the persons or entities who are either the owners, tenants or entities having control of the land or use which is in violation of the County Code.

Respectfully submitted,

JOHN E. BEVERUNGEN
County Attorney

JAMES J. NOLAN, JR.
Assistant County Attorney
400 Washington Avenue
Towson, MD 21204
410-887-4420
Attorneys for Petitioner

IN RE: PETITION FOR SPECIAL HEARING E/S Falls Road, 930' S centerline of Seminary Avenue 8th Election District 3rd Councilmanic District (10905-10911 Falls Road)	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY
William E. & Carroll E. Long, *Legal Owners* **and** Lutherville Collision & Truck Center, *Lessee* *Petitioners*	*	CASE NO. 02-419-SPH Exhibit 1

* * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by the legal owners of the subject property, William E. Long and Carroll E. Long, and the lessee of the site, Lutherville Collision & Truck Center The special hearing request involves property located at 10905-10911 Falls Road in the Lutherville area of Baltimore County. The special hearing request is to approve the continuation of a non-conforming use pursuant to Section 104 of the Baltimore County Zoning Regulations (B.C.Z.R.); to determine, in accordance with Section 405.A of the B.C.Z.R., the screening of the premises required by Section 405.A.1; to determine that the property is not considered residential and, therefore, Section 428 of the B.C.Z.R. does not apply; to determine that the property is not considered residential and, therefore, Section 431 of the B.C.Z.R. is not applicable; and for such other items relating to the non-conforming use as may be presented at the hearing.

Appearing at the hearing on behalf of the special hearing request were William, Carroll and June Long, appearing on behalf of the owners of the property, JoAnne and Steve Galasso, appearing on behalf of the lessee of the site, and J. Carroll Holzer, attorney at law, representing the Petitioners. Appearing in opposition to the Petitioners' request were several residents of the surrounding community, some of whom were represented by Robert D. Sellers, attorney at law. Mr. Jack Dillon, Executive Director of the Valleys Planning Council, also attended the hearing.

02-[illegible]20

IN RE: PETITION FOR SPECIAL HEARING E/S Falls Road, 930' S centerline of Seminary Avenue 8th Election District 3rd Councilmanic District (10905-10911 Falls Road) William E. & Carroll E. Long, *Legal Owners* **and** Lutherville Collision & Truck Center, *Lessee* *Petitioners*	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 02-419-SPH Exhibit 2

* * * * * * * * * * *

ORDER ON MOTION FOR RECONSIDERATION

WHEREAS, this matter came before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by the legal owners of the subject property, William E. Long and Carroll E. Long, and also the Lutherville Collision & Truck Center, the tenant of the site. The purpose of the special hearing was to approve a service garage use on the subject property as a nonconforming use. That particular request was granted in part by my Order dated November 7, 2002.

Thereafter, on November 27, 2002, Mr. Carroll Holzer filed on behalf of his clients a motion for reconsideration requesting that the owners of the property, William E. Long and Carroll E. Long, be permitted to repair and paint automobiles in conjunction with the approval granted to them to repair, paint and customize trucks and specialty vehicles. Submitted along with the motion for reconsideration were photographs of automobiles that were repaired on the property by the Long's in the past. Also submitted were two affidavits, one of which was signed by William E. Long and the other by Carroll E. Long.

After the submittal of the motion for reconsideration, Mr. Robert Sellers, attorney for the protestants in the case, filed a response which was received in this office on December 27, 2002.

TIMOTHY KOTROCO, et al. Plaintiffs	*	IN THE
	*	CIRCUIT COURT
v.	*	FOR
STEVEN GALASSO, et al. Defendants	*	BALTIMORE COUNTY
	*	Case No. 03-C-04-6137

* * * * * * * * * * * *

ORDER Exhibit 3

The above captioned case came before this Court for a contempt hearing on December 14, 2005. At the close of the testimony, and after the arguments of counsel, this Court found both Steven Galasso and Automotive Emporium, Inc. in contempt of court. The matter was scheduled for disposition on February 16, 2006. After another full hearing, this Court ordered the Defendant to pay the sum of $100.00 per day for 146 days, or $14,600.00, payable within 60 days. This Court made no reference in its oral disposition of the contempt finding with respect to Automotive Emporium, Inc. The Court also failed to indicate specifically the identity of the payee of the fine. Plaintiffs, in their Motion for Reconsideration filed February 17, 2006, requested this Court to clarify (1) whether it intended to impose a fine or other punishment upon Automotive Emporium, Inc., and (2) to whom the fines are payable.

Having read and considered the Plaintiffs' Motion for Reconsideration and the Defendants' Opposition thereto, it is this 17th day of April 2006, by the Circuit Court for Baltimore County,

ORDERED that Defendants' Motion for Reconsideration be and hereby GRANTED; and it is further

ORDERED that both Steven Galasso and Automotive Emporium, Inc. are found in contempt and fined Fourteen Thousand Six Hundred Dollars ($14,600.00); and it is further

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2006, Legislative Day No. 15

Bill No. 105-06 Exhibit 4

Mr. Kevin Kamenetz, Councilman

By the County Council, August 7, 2006

AN ACT concerning

Nonconforming Uses

FOR the purpose of authorizing the Zoning Commissioner to terminate a nonconforming use under certain conditions; and generally relating to the termination of a nonconforming use.

BY adding

Section 104.8

Baltimore County Zoning Regulations, as amended

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND that Section 104.8 be and it is hereby added to the Baltimore County Zoning Regulations, as amended, to read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

10905-10911 FALLS ROAD

07-205-SPH

6/20/2007 @ 10:00 a.m. PP'd

8/07/07 @ 10 a.m.

9/25/07 @ 9 a.m. Delib.

Issued Sept. 28, 2007

07-205-SPH

20070205 "A"

BALTIMORE COUNTY, MD; DIRECTOR OF PDM – PETITIONER; STEVEN L. GALASSO, ET UX –LEGAL OWNERS 10905-10911 FALLS ROAD
CASE NO. 07-205-SPH

FILE 1 OF 2 – BOARD'S CASE FILE /07-205-SPH

(File #1 contains Exhibits – Zoning Commissioner's Hearing and Exhibits – Board of Appeals Hearing

2

07-205-SPH

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 10905-10911 FALLS ROAD
which is presently zoned R.C.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve THE CONTINUATION OF A NONCONFORMING USES IN ACCORDANCE WITH SECTION 104, NONCONFORMING USES OF THE BCZR.

TO DETERMINE IN ACCORDANCE WITH SECTION 405A OF BCZR. THE SCREENING OF THE PREMISES REQUIRED BY SECTION 405A.1;

TO DETERMINE THAT THIS PROPERTY IS NOT CONSIDERED RESIDENTIAL AND THEREFORE SECTION 428 OF BCZR DOES NOT APPLY;

TO DETERMINE THAT THIS PROPERTY IS NOT CONSIDERED RESIDENTIAL AND THEREFORE SECTION 431 OF BCZR IS NOT APPLICABLE

AND SUCH OTHER ITEMS RELATED TO THE NONCONFORMING USE AS MAY BE PRESENTED AT THE HEARING.

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

LUTHERVILLE COLLISION & TRUCK CENTER
Name - Type or Print STEVE GALASSO - OWNER

Signature

10905 FALLS ROAD 410-296-5025
Address Telephone No.

LUTHERVILLE MD 21093
City State Zip Code

Attorney For Petitioner:

J. CARROLL HOLZER, ESQ.
Name - Type or Print

Signature

J. CARROLL HOLZER
Company HOLZER & LEE

508 FAIRMOUNT AVE. 410-825-6961
Address Telephone No.

TOWSON MD 21204
City State Zip Code

Legal Owner(s):

WILLIAM E. LONG
Name - Type or Print

Signature

CARROLL E. LONG
Name - Type or Print

Signature

10911 FALLS ROAD
Address Telephone No.

LUTHERVILLE MD 21093
City State Zip Code

Representative to be Contacted:

J. CARROLL HOLZER, ESQ.
Name

508 FAIRMOUNT AVE. 410-825-6961
Address Telephone No.

TOWSON MD 21204
City State Zip Code

Case No. 02-419-SPH

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By BM Date 3/28/02

Defendants' Exhibit 2

(12)

By kmc 9/15/98

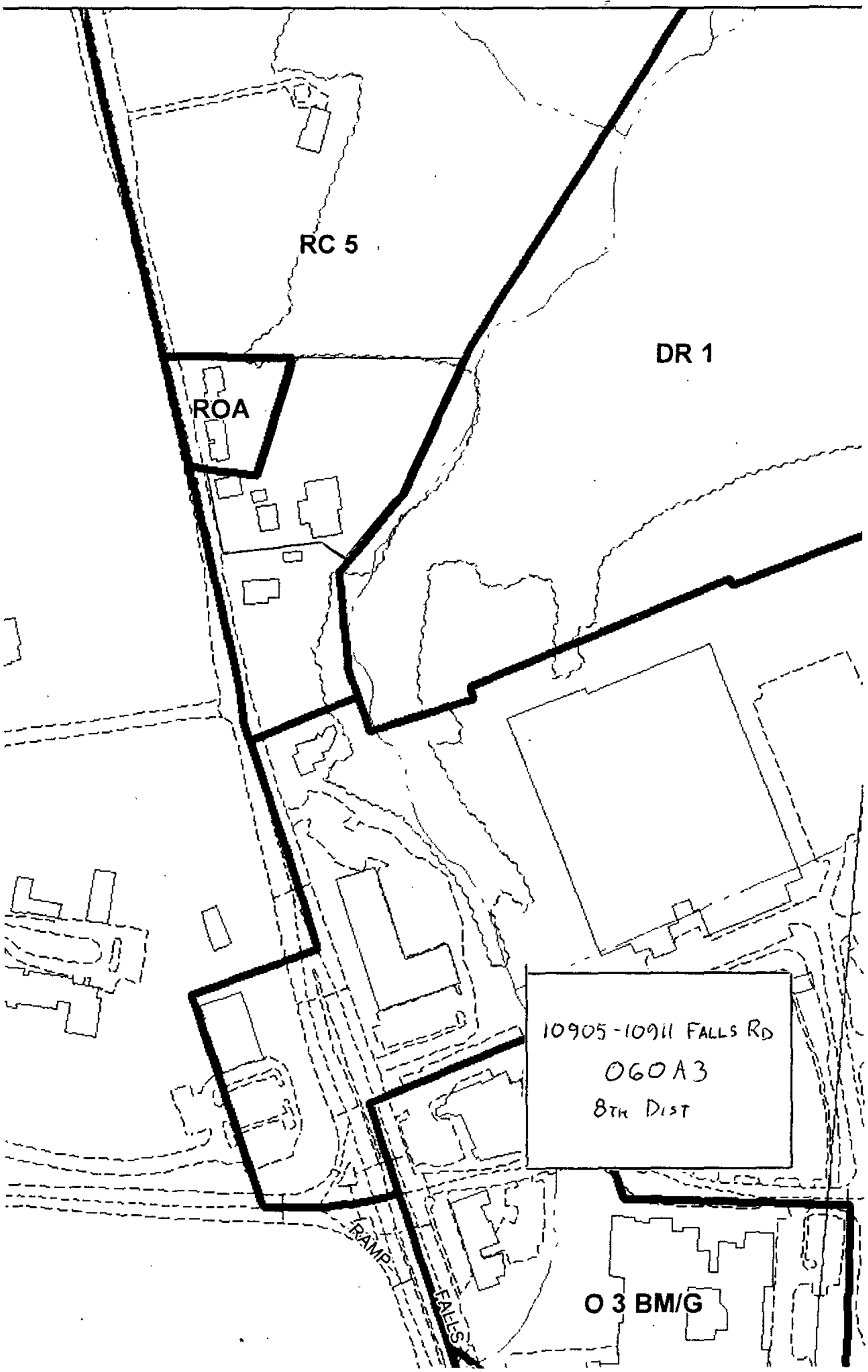
ZONING DESCRIPTION

Beginning at a point on the east side of Falls Road (State Route 25) which is 40 feet wide at the distance of 800 feet more or less north of the centerline of the nearest improved intersecting street, Greenspring Valley Road, which is 60 feet wide. Thence the following courses and distance.

1.	North 03° 12' 00" West -	66.74'
2.	North 03° 12' 00" West -	61.33'
3.	South 80° 36' 00" East -	68.00'
4.	North 24° 55' 00" East -	176.00'
5.	South 79° 49' 00" East -	118.77'
6.	South 81° 16' 20" East -	133.25'
7.	South 30° 06' 05" West -	258.13'
8.	South 44° 36' 30" West -	70.23'
9.	North 59° 19' 40" West -	53.63'
10.	North 86° 25' 00" West -	151.58'

To the place of beginning as recorded in deed liber15541, folio 638. Also known as 10905 - 10911 Falls Road and located in the 8th Election District. and Councilmanic District

07-205-SPH


RC 5
DR 1
ROA
10905 - 10911 FALLS RD
060A3
8TH DIST
O 3 BM/G
RAMP
FALLS

07-205-S

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 07-205-SPH

Petitioner: Baltimore County, Maryland

Address or Location: 10905-10911 Falls Road

PLEASE FORWARD ADVERTISING BILL TO:

Name: Timothy M. Kotroco, Director

Address: Baltimore County Department of Permits & Dev. Mgt.
111 W. Chesapeake Avenue
Towson, MD 21204

Telephone Number: 410-887-3391

Revised 7/11/05 - SCJ

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 27961

DATE 4.19.07 ACCOUNT 001.006.6150

AMOUNT $ 400.00

RECEIVED FROM: Joanne Galasso

FOR: Appeal 07-205-SPH

10905-10911 Falls Rd

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

BILL PAYER

BUSINESS [illegible] DRW

4/20/2007 [illegible] 2

REG WSO [illegible]

SPECIAL # [illegible] DETAIL

Dept 5 [illegible]

CE No. 027941

kept in [illegible]

$400.00 [illegible]

Baltimore [illegible]

CASHIER'S VALIDATION

ZONING NOTICE

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MARYLAND

CASE # 07-205-SPH

SPECIAL HEARING FOR THE PETITIONER
REQUESTING THAT THE ZONING COMMISSIONER
ENTER THE ATTACHED ORDER SCHEDULING A SPECIAL
HEARING TO DETERMINE WHETHER TO TERMINATE THE
NONCONFORMING USE AT WHITE HOUSE FARMS ROAD
UNDER SECTION 104.6 OF THE BCZR AND PROVIDING
NOTICE OF SAID HEARING TO THE PERSONS OR
ENTITIES WHO ARE EITHER THE OWNERS, TENANT
OR ENTITIES HAVING CONTROL OF THE LAND OR
USE WHICH IS IN VIOLATION OF THE COUNTY CODE

HEARING: TUESDAY, JANUARY 9, 2007 AT
9:00 A.M. IN ROOM 106, COUNTY OFFICE
BUILDING, 111 WEST CHESAPEAKE AVENUE

ADDITIONAL INFORMATION IS AVAILABLE AT
[illegible] TEL. 887-3391

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #07-205-SPH
10905-10911 Falls Road
E/side of Falls Road (State Route 25), 800 feet north of Greenspring Valley Road
8th Election District - 2nd Councilmanic District
Legal Owner(s): Steven L. & JoAnne Galasso
Contract Purchaser/Petitioner: Timothy M. Kotroco, Baltimore County Department of Permits & Development Management.

Special Hearing: for the petitioner respectfully requests that the Zoning Commissioner enter the attached Order scheduling a Special Hearing to determine whether to terminate the nonconforming use at 10905-10911 Falls Road under Section 104.8 of the BCZR and providing notice of said hearing to the persons or entities who are either the owners, tenant or entities having control of the land or use which is in violation of the County Code.

Hearing: Tuesday, January 9, 2007 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
12/159 Dec. 21 119559

CERTIFICATE OF PUBLICATION

12/21, 2006

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 12/21, 2006.

- [X] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 09275

DATE 11/1/07 ACCOUNT R-001-7120

AMOUNT $ 23.00

RECEIVED FROM: Nolan, Plumhoff & Williams

FOR: Steven F Joanne Galasso

Copies

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
11/01/2007	11/01/2007	12:45:42	1

REG WS01 WALKIN JRIC JMR
>RECEIPT # 353607 11/01/2007 OFLN
Dept 5 536 MISCELLANOUS
CR NO. 009275
Recpt Tot $23.00
$23.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 27961

DATE 4.19.07 ACCOUNT 001.006.6150

AMOUNT $ 400.00

RECEIVED FROM: Joanne Galasso

FOR: Appeal 07-205-SPH

10905-10911 Falls Rd

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
4/20/2007	4/19/2007	14:50:13	2

REG WS02 MAIL JEVA JEE
>>RECEIPT # 514006 4/19/2007 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 027961
Recpt Tot $400.00
$400.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIM
OFFICE
MISCEL
DATE 4
RECEIVED FROM:
FOR:
10
DISTRIBUTION
WHITE - CASH

Department of Permits and Development Management

Director's Office
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3353 • Fax: 410-887-5708

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

November 15, 2006

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 07-205-SPH
10905-10911 Falls Road
E/side of Falls Road (State Route 25), 800 feet north of Greenspring Valley Road
8th Election District – 2nd Councilmanic District
Legal Owners: Steven L. & JoAnne Galasso
Contract Purchaser/Petitioner: Timothy M. Kotroco, Baltimore County Department of Permits & Development Management

Special Hearing for the petitioner respectfully requests that the Zoning Commissioner enter the attached Order scheduling a Special Hearing to determine whether to terminate the nonconforming use at 10905-10911 Falls Road under Section 104.8 of the BCZR and providing notice of said hearing to the persons or entities who are either the owners, tenant or entities having control of the land or use which is in violation of the County Code.

Hearing: Wednesday, January 3, 2007 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Steven & JoAnne Galasso
Wilham & Carroll Long
Specialty Automotive, LLC
Automotive Emporium, Inc.
Valley Services

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, DECEMBER 19, 2006.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

November 29, 2006

Steven & JoAnne Galasso
8509 Thornton Road
Lutherville, MD 21093

Dear Mr. & Mrs. Galasso:

RE: Case Number: 07-205-SPH, 10905-10911 Falls Road

The above matter, previously scheduled for January 3, 2007, has been postponed. The hearing has been rescheduled and the notice reflecting this change is attached.

Please be advised that the responsibility of the appropriate posting of the property is with the Petitioners. The petitioner or his/her agent may not personally post or change a zoning sign. One of the currently approved vendors/posters must be contacted to do so. If the property has been posted with the notice of the original hearing date, as quickly as possible after you have been notified, the new hearing date should be affixed to the sign(s).

Very truly yours,

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

C: Wilhalm & Carroll Long
Valley Services
Automotive Emporium
Specialty Automotive

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

November 30, 2006
TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

NEW NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

RE-POSTED SIGN (2 PHOTOS)
12-28-06 @ 12:10 PM

CASE NUMBER: 07-205-SPH
10905-10911 Falls Road
E/side of Falls Road (State Route 25), 800 feet north of Greenspring Valley Road
8th Election District – 2nd Councilmanic District
Legal Owners: Steven L. & JoAnne Galasso
Contract Purchaser/Petitioner: Timothy M. Kotroco, Baltimore County Department of Permits & Development Management

Special Hearing for the petitioner respectfully requesting that the Zoning Commissioner enter the attached Order scheduling a Special Hearing to determine whether to terminate the nonconforming use at 10905-10911 Falls Road under Section 104.8 of the BCZR and providing notice of said hearing to the persons or entities who are either the owners, tenant or entities having control of the land or use which is in violation of the County Code.

Hearing: Tuesday, January 9, 2007 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

Posted sign:
12/21/06 @ 10:30 AM JRA
2 photo's.

C: Steven & JoAnne Galasso
Wilham & Carroll Long
Specialty Automotive, LLC
Automotive Emporium, Inc.
Valley Services

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, DECEMBER 23, 2006.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

November 30, 2006
TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

NEW NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 07-205-SPH
10905-10911 Falls Road
E/side of Falls Road (State Route 25), 800 feet north of Greenspring Valley Road
8th Election District – 2nd Councilmanic District
Legal Owners: Steven L. & JoAnne Galasso
Contract Purchaser/Petitioner: Timothy M. Kotroco, Baltimore County Department of Permits & Development Management

Special Hearing for the petitioner respectfully requesting that the Zoning Commissioner enter the attached Order scheduling a Special Hearing to determine whether to terminate the nonconforming use at 10905-10911 Falls Road under Section 104.8 of the BCZR and providing notice of said hearing to the persons or entities who are either the owners, tenant or entities having control of the land or use which is in violation of the County Code.

Hearing: Tuesday, January 9, 2007 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

C: Steven & JoAnne Galasso
Wilham & Carroll Long
Specialty Automotive, LLC
Automotive Emporium, Inc.
Valley Services

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, DECEMBER 23, 2006.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.


ZONING NOTICE
A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MARYLAND
CASE # 07-205-SPH
SPECIAL HEARING FOR THE PETITIONER RESPECTFULLY REQUESTING THAT THE ZONING COMMISSIONER ENTER THE ATTACHED ORDER SCHEDULING A SPECIAL HEARING TO DETERMINE WHETHER TO TERMINATE THE NON-CONFORMING USE AT 10904-10911 FALLS ROAD UNDER SECTION 104.8 OF THE ACT AND PROVIDING NOTICE OF SAID HEARING TO THE PERSONS OR ENTITIES WHO ARE EITHER THE OWNERS, TENANTS OR ENTITIES HAVING CONTROL OF THE LAND OR USE WHICH IS IN VIOLATION OF THE COUNTY CODE
HEARING: TUESDAY, JANUARY 9, 2007 AT 9:00 A.M. IN ROOM 106, COUNTY OFFICE BUILDING, 111 WEST CHESAPEAKE AVENUE
ADDITIONAL INFORMATION IS AVAILABLE AT ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT
TEL: 887-3391
SERVICES CO
ody Shop Office In Rea
10905
10907


ZONING NOTICE
A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MARYLAND
CASE # 07-205-SPH
SPECIAL HEARING FOR THE PETITIONER RESPECTFULLY REQUESTING THAT THE ZONING COMMISSIONER ENTER THE ATTACHED ORDER SCHEDULING A SPECIAL HEARING TO DETERMINE WHETHER TO TERMINATE THE NON-CONFORMING USE AT 10905-10911 FALLS ROAD UNDER SECTION 104.A OF THE BCZR AND PROVIDING NOTICE OF SAID HEARING TO THE PERSONS OR ENTITIES WHO ARE EITHER THE OWNERS, TENANTS OR ENTITIES HAVING CONTROL OF THE LAND OR USE WHICH IS IN VIOLATION OF THE COUNTY CODE
HEARING: TUESDAY, JANUARY 9, 2007 AT 9:00 A.M. IN ROOM 106, COUNTY OFFICE BUILDING, 111 WEST CHESAPEAKE AVENUE
ADDITIONAL INFORMATION IS AVAILABLE AT ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT
TEL. 887-3391

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

rec'd po 8/07/07

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

May 16, 2007

NOTICE OF ASSIGNMENT

CASE #: 07-205-SPH

IN THE MATTER OF: DIRECTOR, PDM, BALTIMORE COUNTY, MARYLAND – Petitioner; STEVEN L. GALASSO, ET UX - Legal Owners; 10905-10911 Falls Road 8th E; 2nd C

3/13/2007 – Decision of Zoning Commissioner – Baltimore County's Petition for Special Hearing GRANTED; nonconforming use terminated; property to be converted to a permitted use in compliance with RC 5 zoning classification.

ASSIGNED FOR: **WEDNESDAY, JUNE 20, 2007 at 10:00 a.m.**

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

---

c: Counsel for Legal Owners /Appellants : Donna M.B. King, Esquire
Legal Owners /Appellants : Steven and JoAnne Galasso

Carroll Edward Long and Wilham Edward Long
Specialty Automotive, LLC /Debbie Jones, RA

Counsel for Petitioner : James J. Nolan, Jr., Assistant County Attorney
Petitioner : Timothy M. Kotroco, Director
Department of Permits & Dev. Management

Jack Dillon
Paul G. Miller
Robert Williams

Office of People's Counsel
Pat Keller, Planning Director
William J. Wiseman III, Zoning Commissioner
Jeffrey Radcliffe
Jerry Chen
Raymond S. Wisnom, Code Enf. Hearing Officer
John E. Beverungen, County Attorney

LAW OFFICE OF DONNA M.B. KING, LLC
309 West Pennsylvania Avenue
Towson, Maryland 21204
410-494-1005
410-769-8333

May 23, 2007

VIA FIRST CLASS MAIL

Ms. Kathleen C. Bianco
Administrator
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: Case No. 07-205-SPH
Timothy Kotroco, Petitioner
Steven L. Galasso, *et ux.*, Respondents

Dear Ms. Bianco:

Enclosed please find a Request for Postponement of the hearing scheduled in the above-referenced matter. Also enclosed is an additional copy for date-stamp and return in the enclosed self-addressed stamped envelope.

Thank you for your consideration. Please contact me with any questions.

Very truly yours,

Donna M.B. King

Donna M.B. King

cc: James Nolan, Esquire
Peter Max Zimmerman, Esquire
William J. Wiseman, III, Zoning Commissioner

RECEIVED
MAY 25 2007
BALTIMORE COUNTY
BOARD OF APPEALS

5/8/07/07

IN THE MATTER OF:	*	BEFORE THE COUNTY
TIMOTHY KOTROCO, DIRECTOR, DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT BALTIMORE COUNTY, MARYLAND,	*	BOARD OF APPEALS
	*	OF BALTIMORE
	*	COUNTY
Petitioner,	*	
v.	*	Case No. 07-205-SPH
STEVEN L. GALASSO, et ux.,	*	
Respondents.	*	

* * * * * * * * * * * *

REQUEST FOR POSTPONEMENT OF HEARING

Respondents Steven Galasso and Joanne Galasso, by and through their undersigned attorney, file this request for postponement of the scheduled June 20, 2007 hearing in this matter. Counsel for Respondents, Donna King, is scheduled to be out of town for family matters on that date. Petitioner does not object to this postponement.

Respondents respectfully request that the Board of Appeals not reschedule the matter for June 30 to July 7, 2007, because Respondents are scheduled to be out of town on those dates.

Donna M.B. King
Law Office of Donna M.B. King, LLC
309 West Pennsylvania Avenue
Towson, Maryland 21204
(410) 494-1005

Attorney for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of May 2007, I served the foregoing Request for Postponement of Hearing by First Class mail upon the following:

John E. Beverungen, Esquire
James J. Nolan, Jr., Esquire
Assistant County Attorneys
400 Washington Avenue
Towson, Maryland 21204

Attorneys for Petitioner Timothy Kotroco,
Raymond Wisnom, III,
and Baltimore County, Maryland

Peter Max Zimmerman, Esquire
Office of People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, Maryland 21204

William J. Wiseman, III
Zoning Commisioner
Baltimore County, Maryland
County Courts Building
401 Bosley Avenue, Suite 405
Towson, Maryland 21204

Donna M.B. King

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

August 14, 2007

NOTICE OF DELIBERATION

IN THE MATTER OF:
BALTIMORE COUNTY, MD; DIRECTOR OF PDM – Petitioner;
Steven Galasso, et ux Legal Owners
Case No-07-205-SPH

Having heard this matter on 8/07/07, public deliberation has been scheduled for the following date /time:

DATE AND TIME : **TUESDAY, SEPTEMBER 25, 2007 at 9:00 a.m.**

LOCATION : **Hearing Room 48, Basement, Old Courthouse**

NOTE: Closing briefs are due on FRIDAY, AUGUST 31, 2007
(Original and three [3] copies)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco
Administrator

c: ~~Counsel for Legal Owners /Appellants~~ : ~~Donna M.B. King, Esquire~~ w/a appearance 8-20-07
Legal Owners /Appellants : Steven and JoAnne Galasso

Carroll Edward Long and Wilham Edward Long
Specialty Automotive, LLC /Debbie Jones, RA

Counsel for Petitioner : James J. Nolan, Jr., Assistant County Attorney
Petitioner : Timothy M. Kotroco, Director
Department of Permits & Dev. Management

Jack Dillon
Paul G. Miller
Robert Williams

Office of People's Counsel
Pat Keller, Planning Director
William J. Wiseman III, Zoning Commissioner
Jeffrey Radcliffe
Jerry Chen
Mike Mohler, Dep. Director /PDM

Raymond S. Wisnom, Code Enf. Hearing Officer
John E. Beverungen, County Attorney

Copy to: 5-3-4

ZONING NOTICE

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MARYLAND

CASE # 07-205-SPH

SPECIAL HEARING FOR THE PETITIONER REQUESTING THAT THE ZONING COMMISSIONER ENTER THE ATTACHED ORDER SCHEDULING A SPECIAL HEARING TO DETERMINE WHETHER TO TERMINATE THE NON-CONFORMING USE AT 10905-10911 FALLS ROAD UNDER SECTION 104.3 OF THE BCZR AND PROVIDING NOTICE OF SAID HEARING TO THE PERSONS OR ENTITIES WHO ARE EITHER THE OWNERS, TENANT OR ENTITIES HAVING CONTROL OF THE LAND OR USE WHICH IS IN VIOLATION OF THE COUNTY CODE

HEARING: TUESDAY, JANUARY 9, 2007 AT 9:00 A.M. IN ROOM 106, COUNTY OFFICE BUILDING, 111 WEST CHESAPEAKE AVENUE

ADDITIONAL INFORMATION IS AVAILABLE AT ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT
111 W. CHESAPEAKE AVE.
TOWSON, MD. 21204
TEL. 887-3391

MEETING IS HANDICAP ACCESSIBLE

TO: PATUXENT PUBLISHING COMPANY
Thursday, December 21, 2006 Issue - Jeffersonian

Please forward billing to:
Timothy Kotroco, Director 410-887-3391
Baltimore County Department of Permits & Development Management
111 West Chesapeake Avenue
Towson, MD 21204

CORRECTED NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 07-205-SPH
10905-10911 Falls Road
E/side of Falls Road (State Route 25), 800 feet north of Greenspring Valley Road
8th Election District – 2nd Councilmanic District
Legal Owners: Steven L. & JoAnne Galasso
Contract Purchaser/Petitioner: Timothy M. Kotroco, Baltimore County Department of Permits & Development Management

Special Hearing for the petitioner respectfully requests that the Zoning Commissioner enter the attached Order scheduling a Special Hearing to determine whether to terminate the nonconforming use at 10905-10911 Falls Road under Section 104.8 of the BCZR and providing notice of said hearing to the persons or entities who are either the owners, tenant or entities having control of the land or use which is in violation of the County Code.

Hearing: Tuesday, January 9, 2007 at 9:00 a.m. in Room 106, County Office Building;
111 West Chesapeake Avenue, Towson 21204

WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, December 19, 2006 Issue - Jeffersonian

Please forward billing to:
Timothy Kotroco, Director 410-887-3391
Baltimore County Department of Permits & Development Management
111 West Chesapeake Avenue
Towson, MD 21204

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 07-205-SPH
10905-10911 Falls Road
E/side of Falls Road (State Route 25), 800 feet north of Greenspring Valley Road
8th Election District – 2nd Councilmanic District
Legal Owners: Steven L. & JoAnne Galasso
Contract Purchaser/Petitioner: Timothy M. Kotroco, Baltimore County Department of Permits & Development Management

Special Hearing for the petitioner respectfully requests that the Zoning Commissioner enter the attached Order scheduling a Special Hearing to determine whether to terminate the nonconforming use at 10905-10911 Falls Road under Section 104.8 of the BCZR and providing notice of said hearing to the persons or entities who are either the owners, tenant or entities having control of the land or use which is in violation of the County Code.

Hearing: Wednesday, January 3, 2007 at 9:00 a.m. in Room 106, County Office Building,
111 West Chesapeake Avenue, Towson 21204

WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

April 24, 2007

William E. Long
1619 Alston Road
Towson, MD 21204

RE: Petition for Special Hearing
(10905-10911 Falls Road)
Case No. 07-205-SPH

Dear Mr. Long:

I completely appreciate your position as eloquently outlined in your April 13, 2007 correspondence. Rather than address specific concerns which are not under Zoning Commission jurisdiction, attached is a letter previously written to you by Arnold F. "Pat" Keller, III, Director of the Office of Planning, which concerns the subject matter.

The above-referenced case is on appeal to the Board of Appeals and the matter is no longer under the control of the Zoning Commission Office.

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:pz

Attachment

Office of Planning

401 Bosley Avenue, Suite 406
Towson, Maryland 21204
Tel: 410-887-3211 • Fax: 410-887-5862
E-mail: planning@co.ba.md.us

Baltimore County

Arnold F. Pat Keller, III, Director

December 6, 2005

William Long
10911 Falls Road
Lutherville, MD 21093

Re: Falls Road Property
District 08 Account Number 2000011831; and
District 08 Account Number 2000011832

Dear Mr. Long:

The Office of Planning has received your recent request to correct the zoning on the above referenced properties. My staff has carefully reviewed your chronology of the situation and the historical zoning maps you presented as to why the property in question should be zoned BL. The information appears sound and correct. However, the failure to include the 'E' commercial area- that previously existed on the 1945 zoning map- on the 1955 zoning map and all successive zoning maps was not part of the Comprehensive Zoning Map Process ("CZMP").

Section 32-3-321 et seq of the Baltimore County Code ("Code") is intended to address situations in which there is an error on the zoning maps that does not accurately reflect the zoning classifications enacted by the County Council during any CZMP. However, this map correction process cannot be used to address your concerns because the scenario you described occurred before the County instituted the CZMP.

There are other avenues available to change the zoning on your property. You may pursue a change through the standard CZMP, which is described in the Code under Sections 32-3-211 through 32-3-223; or you may wish to pursue a zoning reclassification through Cycle Zoning as outlined in the Code under Sections 32-3-501 through 32-3-517. If you have any questions about this, please do not hesitate to contact Jeff Mayhew of my staff at 410.887.3480.

Sincerely yours,

Pat Keller

Arnold F. 'Pat' Keller, III
Director

AFK:JM:lsn

c: Hon. Kevin Kamenetz, Second District Councilman
Nancy C. West, Assistant County Attorney, Law Office
Michael Field, Assistant County Attorney, Law Office
Jeff Long, Deputy Director, Office of Planning

W:\COMPLAN\Jeff Mayhew\Letter-William Long.doc

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

April 19, 2007

Steven L. Galasso
8509 Thornton Road
Lutherville, MD 21093

Dear Mr. Galasso:

RE: Case: 07-205-SPH, 10905-10911 Falls Road

Please be advised that an appeal of the above-referenced case was filed in this office on March 30, 2007 by Donna M. B. King. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Timothy Kotroco
Director

RECEIVED
APR 2 0 2007
BALTIMORE COUNTY
BOARD OF APPEALS

TK:amf

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Donna M. B. King 309 West Pennsylvania Avenue Towson 21204
JoAnne Galasso 8509 Thornton Road Lutherville 21093
Carroll Edward Long 1619 Alston Road Towson 21204
Wilham Edward Long 1619 Alston Road Towson 21204
Specialty Automotive, LLC Debbie Jones, Resident Agent 10907 Falls Road Lutherville 21093

Zoning Commissioner's Office
/William J. Wiseman III
County Courts Building
401 Bosley Avenue, Suite 401/405
Towson, MD 21204

13 APR 07

RECEIVED
APR 13 2007
BY:.....

William E. Long
1619 Alston Rd.
Towson, MD 21204

Re: Appeal of Case No. 07-205-SPH

Dear Mr. Wiseman,

I cannot agree with your Findings of Fact because of the errors and false statements in it. Baltimore County insists and continues to state the property is zoned R.C.5 and the business has been operating under non-conforming use. This is incorrect.

As to the zoning of the property, the answer can be found in the records at the Zoning Office in the Baltimore County Office Building, the Baltimore County Office of Planning in the County Courts Building, and at the Towson Branch of the Baltimore County Public Library who maintain the past issues of The Jeffersonian, Baltimore County's paper of record.

There is one thing I cannot find however, any documents that changed the zoning of the property from "E" Commercial later renamed "BL" to RC-5 or any other residential zoning. I have requested on numerous occasions for these documents and have had no response. Under the "Freedom of Information Act" I was permitted to review all files in regards to this property and it was not there. Mr. Winsom said "The Long's contend the property is BL zone and that a zoning mistake is the cause of the residential zone that now exists on the property". After reviewing all the available documents, they indicate no change from the BL zoning so residential zone does not exist on the property.

I went to the Office of the County Executive where I was introduced his Constituent Service Representative, Hanna Sacks. Zoning says it is the use of the property, not the user. Hanna Sacks told me all the problems would end if I remove my tenant, meaning that it is the user not the use. This is in conflict with the zoning codes.

Since the original zoning change from "A" Residence to "E" Commercial was signed by the zoning commissioner, I went to the zoning commissioner's office and was informed that he no longer has the authority to enforce this or have it applied to the current map. I was also informed that that power now rests with the Baltimore County Council. In the 2004 CZMP I applied for what ever zoning is required to allow the business to continue. At this point in time they told me the property was currently zoned R.C.5 and I believed them. Since they were not sure if BL or BM zoning was required, they applied for BM. I attended the County Council's vote on the 2004 CZMP.

The property in question was not mentioned for change since the committee recommended that the zoning not be changed. At the end of the session I asked Councilman Kevin Kamenetz, where this leaves the property. His response was "Since the use pre-dates zoning, the use may continue."

You stated at the hearing, if I disagree with the zoning map, there is a process to verify the claim. I did this.

If you look at the current zoning maps, there is a new message in the margin, a disclaimer saying the information may not considered accurate. Previous maps did not say this and were considered gospel. If a records check had been performed, it would have shown that Petition 0793 made this property commercial and that no documents exist to change the property from that use. For reasons unknown, the property was never outlined on the zoning maps to indicate the zoning. Only the petition number was placed on the maps. As this would be considered a drafting error, under the Baltimore County Code, Article 32, Part IV § 32-3-231, we requested a zoning map correction. This was filed with Jeff Mayhew at the Office of Planning. After about 2 months, he contacted me by telephone to say that he was not permitted to cross the street to go to the county office building, so he could not investigate this matter. This sounded strange, however he insisted this was their policy. I believe this action, or inaction, violates the Baltimore County Code, Article 32, Part IV § 32-3-232.

It should be noted that Baltimore County issued a new building permit on 13 DEC 46 for a building for the purpose of commercial body building and repairs. A second new building permit was issued on 8 JUL 57 for a building for the purpose of carpenter, repair and paint shop addition. If the property did not have a commercial zoning, why would Baltimore County approve the construction of commercial buildings.

The result of all this has been devastating to my family's wellbeing both in health and finances. I feel the whole situation can be simplified if you stick to the basic issue, the zoning of the property.

1. Petition 0793 filed to change zoning from "A" Residence to "E" Commercial.
2. Notice of zoning reclassification published in the Jeffersonian, January 3,1947.
3. Petition 0793 was approved and zoning was changed from "A" Residence to "E" Commercial.
4. In 1955 the coding system changed "E" Commercial to "BL".
5. Since no documentation has been found to change the property from "BL", "BL" is still in force.

If Baltimore County contends the zoning is other than "BL", I require the following:

1. The date of the zoning change.
2. Documents ordering the change, including those from the County Council.
3. The edition of the Jeffersonian, Baltimore County's paper of record, where the change would have been posted.

If Baltimore County can not produce these documents, I request the following:

1. Baltimore County acknowledge that the property is still "BL".
2. The zoning map be amended to correct the oversight.
3. Baltimore County to do all it can to try to rectify the damage to the affected families.

Respectfully submitted,

William E. Long

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Kristen Matthews, DPDM
File

DATE: March 13, 2007

FROM: William J. Wiseman, III
Zoning Commissioner

SUBJECT: Petition for Special Hearing
10905-10911 Falls Road
Case No. 07-205-A

We anticipate an appeal being filed. It may be wise to contact Code Enforcement and have them bring the companion file, which is in a box, to you for safekeeping.

WJW:dlw

LAW OFFICE OF DONNA M.B. KING, LLC
309 West Pennsylvania Avenue
Towson, Maryland 21204
410-494-1005
410-769-8333

February 6, 2007

VIA FACIMILE AND FIRST CLASS MAIL

William J. Wiseman
Zoning Commissioner for
Baltimore County
401 Bosley Avenue
Towson, Maryland 21204

RE: Petition for Special Hearing
10905-10911 Falls Road
Hearing Held January 9, 2007

Dear Mr. Wiseman:

This letter responds to James Nolan's February 5, 2007 letter. I received Mr. Nolan's letter this morning by facsimile from Patti Zook of your office.

Mr. Nolan's letter states that the Department of Permits and Development Management (the "Department") issued more citations against Respondents. Respondents received the citations yesterday. The citations allege violations on every day from August 19, 2006 "thru 2/16/07" for a penalty of $36,200.00. The citations set a hearing date of next Friday, February 16, 2007.

My clients, the Respondents to Timothy Kotroco's Petition for Special Hearing object to any continuance of this matter, and strongly object to Timothy Kotroco's request to reopen the matter for evidence and hold another hearing date. Mr. Kotroco brought this action as Petitioner (although he did not attend the hearing), and Respondents were forced to attend and defend themselves in a hearing completed on January 9, 2007. You closed the matter for evidence on that date. Mr. Kotroco now would like to reopen the matter, possibly upon consideration of the arguments made in support of Respondents' motion to dismiss. This clearly is inappropriate. Mr. Kotroco chose to proceed as he did and cannot now request another hearing date when the evidence is closed.

Respondents must believe that Mr. Kotroco's request is made in the hopes that when his zoning officer upholds his Department's citation, that Respondents would be

unable to post $36,200.00 in fifteen days in order to appeal to the Board of Appeals. Respondents believe that Mr. Kotroco would then ask you to consider the Department's ruling as final and as proof of a continuing violation under Baltimore County Zoning Regulation 104.8.

As you are aware, Steven and JoAnne Galasso are pursuing an action in federal court challenging the constitutionality of the Department's actions. Please be aware that the Galassos will be filing a motion for preliminary injunction to prevent the hearing on these new citations from going forward.

Please also be aware that the cited parties will be requesting a postponement of the February 16, 2007 hearing date, in the event that the federal court does not grant a preliminary injunction. The Galassos will be out of town on February 16, 2007, under arrangements made at least six months ago.

Thank you in advance for your consideration.

Very truly yours,

Donna M.B. King

cc: James Nolan, Esquire (by facsimile)

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

JOHN E. BEVERUNGEN
County Attorney
Office of Law

February 5, 2007

William J. Wiseman
Zoning Commissioner for
Baltimore County
401 Bosley Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing
10905-10911 Falls Road
Hearing: January 9, 2007

Dear Mr. Wiseman:

This matter was heard by you on January 9, 2007. Counsel for the Galassos raised certain constitutional questions which you have requested be briefed by February 13, 2007.

The purpose of this letter is advise you that the Code Inspector issued a new set of citations for continuing and multiple violations at the above-property. The matter is scheduled for hearing before the Code Official's Designee on February 16, 2007 at 9:00 a.m.

The purpose of this letter is to request that you continue this matter until after the Code Official's Designee has determined whether there have been new violations after September 8, 2007, the effective date of Bill 105-06.

If the Code Official's Designee determines that there have been new violations, then I will request that you reopen the record in this matter and allow me to produce additional testimony concerning those violations.

If the Code Official's Designee does not find violations, then I would request an additional two (2) weeks from the date of that decision to submit the brief that you previously had requested.

I have asked Counsel for the Galassos whether she has any obligation to this request. She said she needed to consult with her client, but I have not heard back from her.

Thank you for your kind consideration of this request.

Very truly yours,

James J. Nolan, Jr.
Assistant County Attorney

JJN, Jr./dms
Enclosure

cc : John E. Beverungen
County Attorney

Timothy M. Kotrocco
Director, DPDM

Donna M.B. King, Esquire

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BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

January 4, 2007

James E. Beverungen
County Attorney
400 Washington Avenue
Towson, MD 21204

Dear Mr: Beverungen:

RE: Case Number: 07-205-SPH, 10905-10911 Falls Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 6, 2006.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel
James J. Nolan, Jr. Assistant County Attorney 400 Washington Avenue Towson 21204
Steven L. and JoAnne Galasso 8508 Thornton Road Lutherville 21093
Debbie Jones Specialty Automotive, LLC 10907 Falls Road Lutherville 21093
Carroll Edward and Wilham Edward Long 1619 Alston Road Towson 21204

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: November 20, 2006

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 10911 Falls Road

INFORMATION:

Item Number: 7-205

Petitioner: Baltimore County Department of Permits and development Management

Zoning: RC 5

Requested Action: Termination of non- conforming use

Pursuant to Section 104.8, the Zoning Commissioner may terminate a non-conforming use and require the use to revert to a use allowed under the existing zoning classification. The legal brief accompanying the petition contains an abundance of well-documented information that in the opinion of the Office of Planning should establish that the non-conforming use for the repair of classic cars and trucks has ceased. The courts have established that Lutherville Collision's use of the property for the bodywork and repair of passenger automobile cars and trucks is a zoning violation.

SUMMARY OF RECOMMENDATIONS:

Should the Zoning Commissioner rule that the non-conforming use has been abandoned, the property owner must convert the property to a legally permitted RC5 use. In the event that the use is a single-family residence the Office recommends the following restrictions:

1. If the existing office known as 10911 Falls Road is converted to a single family dwelling, obtain a side yard setback variance for a 4-foot side yard setback in lieu of the required 50 feet. The Office of Planning is required to issue a finding of compliance with the RC5 zone prior to issuance of any building permits.
2. Note on any future plans that the property is within the traffic shed of Falls Road and Greenspring Valley Road, which is operating at an "F" Level of Service.
3. Note on any future plans that Falls Road is a scenic route.
4. Note on any future plans that the existing building known as 10911 Falls Road is historic. It is on the County Register (MHT)# BA-1590 and is a contributing structure in the Greenspring Valley National Register District. Any future demolition requests must be reviewed by the Baltimore County Landmarks Commission and may require an administrative special hearing.
5. Raze the existing repair shop after appropriate planning review if required (i.e. landmarks preservation).

6. Remove all commercial signs.
7. Remove most of the paved surface and submit a landscape plan for approval. The area must be re-vegetated within six months.

For further information concerning the matters stated here in, please contact Diana Itter at 410-887-3480.

Prepared by: _____

Division Chief: _____
AFK/LL: CM

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

November 16,2006

ATTENTION: Zoning Review Planners

Distribution Meeting Of: November 13, 2006

Item Number(s): 203 through 212

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

1. The Fire Marshal's Office has no comments at this time. . .

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4881 (C)443-829-2946
MS-1102F

cc: File

Robert L. Ehrlich, Jr., *Governor*
Michael S. Steele, *Lt. Governor*

SHA State Highway Administration — Driven to Excel

Robert L. Flanagan, *Secretary*
Neil J. Pedersen, *Administrator*

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 11-13-2006

Ms. Kristen Matthews
Baltimore County Office Of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 7-205 SPH
10905-10911 FALLS ROAD
GALASSO PROPERTY
SPECIAL HEARING-

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 7-205 SPH.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

Michael P. Bailey

FOR Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits & Development Management

DATE: November 14, 2006

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For November 20, 2006
Item Nos. 07-202, 203, 204, 205, 206, 207, 208, 209, 210, 211, and 212

The Bureau of Development Plans Review has reviewed the subject zoning items and we have no comments.

DAK:CEN:clw
cc: File
ZAC-NO COMMENTS-11142006.doc

RE:	PETITION FOR SPECIAL HEARING 10905-10911 Falls Road; E/S Falls Road, 800' N Greenspring Valley Road 8th Election & 2nd Councilmanic Districts Legal Owner(s): Steven & JoAnne Galasso Contract Purchaser(s) Balto Co. PDM by Timothy Kotroco Petitioner(s)	*	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 07-205-SPH

* * * * * * * * * * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of November, 2006, a copy of the foregoing Entry of Appearance was mailed to, John Beverungen, County Attorney and James J. Nolan, Jr, Assistant County Attorney, 400 Washington Avenue, 2nd Floor, Towson, Maryland 21204, Attorney for Petitioner(s).

RECEIVED
NOV 15 2006
Per.....

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

BALTIMORE COUNTY

MARYLAND

February 8, 2007

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

Donna M.B. King, Esquire
Law Office of Donna M.B. King, LLC
309 West Pennsylvania Avenue
Towson, MD 21204

James J. Nolan, Jr., Esquire
Assistant County Attorney
Office of Law, Second Floor
400 Washington Avenue
Towson, Maryland 21204

RE: **PETITION FOR SPECIAL HEARING**
E/S of Falls Road (State Route 25), 800 N of Greenspring Valley Road
(10905-10911 Falls Road)
8th Election District – 2nd Council District
Timothy M. Kotroco – Balto. Co. Department of Permits & Development Management – *Petitioner*;
Steven L. and JoAnne Galasso, et al - *Legal Owners and Respondents*
Case No. 07-205-SPH

Dear Counsel:

This will serve to confirm our recent telephone discussions. I have decided to extend the deadline to submit written Memoranda until Friday, February 23, 2007. This is due in chief since the Petitioner requested a continuance of this matter in view of "a new set of citations" pending before the Code Official which they feel should be made a part of the current petition before me. Respondents have strongly objected to this suggestion and indicate they will be filing an injunction as part of their federal proceedings regarding these new citations.

After due consideration of the request, opposition thereto and the testimony and evidence already presented at the hearing concerning the legitimacy of Respondents' non-conforming use on Falls Road, I am convinced that there is no reason to leave the record of this case open for an undetermined length of time while the parties litigate their differences in other forums.

I therefore will look forward to receiving your Memorandum prior to the close of business on Friday, February 23, 2007.

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

c: Peter Max Zimmerman, People's Counsel

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

August 6, 2007

Hand-delivered

Margaret Brassil, Chair
County Board of Appeals
400 Washington Avenue, Room 49
Towson, MD 21204

via First Class Mail and Fax

RE: PETITION FOR SPECIAL HEARING
10905-10911 Falls Road
Petitioner, Baltimore County, Maryland
Property Owners, Steven & JoAnne Galasso
Case No. 07-205-SPH

Dear Ms. Brassil:

This is to register our office's interest in this case pursuant to the office's responsibility to defend the comprehensive maps under County Charter Sec. 524.1(b). This office frequently participates actively in special hearing cases to determine issues of law. People's Counsel v. Maryland Marine Mfg. Co., 316 Md. 491, 496-97 (1989); Board of Child Care v. Harker, 316 Md. 683 (1989); Marzullo v. Kahl, 366 Md. 158 (2001); Antwerpen v. Baltimore County, 163 Md. App. 194, 209 (2005).

The case comes to the County Board of Appeals *de novo* under County Charter Sec. 603. Pollard's Towing v. Berman's Body Frame & Mechanical, 137 Md. App. 277, 289 (2001). Therefore, the CBA will conduct a new trial and make new findings of fact and conclusions of law.

Baltimore County, Maryland is the Petitioner and is represented by the Baltimore County Office of Law. If the facts presented to the CBA are materially similar to the facts recited in the Zoning Commissioner's decision, then the County Board of Appeals should reach the same legal conclusion with respect to termination of the nonconforming use under BCZR 104.1. In other words, it is our office's position that the Zoning Commissioner's conclusions of law are correct and logical based on his factual findings.

Margaret Brassil, Chair
County Board of Appeals
August 6, 2007

The main point is that if the County Board of Appeals finds as a matter of fact that any original legal nonconforming use has changed, expanded, or, on the other hand, has been abandoned or discontinued, then the nonconforming use is terminated. See Prince George's County v. E.L. Gardner, Inc., 293 Md. 259, 266-68 (1982); Canada's Tavern v. Town of Glen Echo, 260 Md. 206 (1970); Phillips v. Zoning Comm'r of Howard County, 225 Md. 102, 109 (1961); Purich v. Draper Properties, 395 Md. 694, 708-11 (2006).

As Baltimore County, Maryland and the property owners are both represented by counsel, we shall leave it to the parties to present the facts accurately and completely. Based on our review of the record to date, however, it is reasonable to expect that the facts will be materially similar to the facts presented to the Zoning Commissioner. If so, the conclusion should be the same.

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for
Baltimore County

c: John Beverungen, County Attorney [FAX 410-296-0931]
James Nolan, Assistant County Attorney [FAX 410-296-0931]
Donna King, Esquire, Attorney for Property Owners [FAX 410-769-8333]

Patricia Zook - Case No. 07-205-SPH (10905-10911 Falls Road) heard on January 9, 2007

From: Patricia Zook
To: donnambking@verizon.net
Date: 2/5/2007 4:32:15 PM
Subject: Case No. 07-205-SPH (10905-10911 Falls Road) heard on January 9, 2007
CC: Wiseman, Bill

Please contact William J. Wiseman, III, the Zoning Commissioner for Baltimore County at 410-887-3868 regarding the above-referenced case. We are inquiring if you received the February 5, 2007 correspondence from James J. Nolan, Jr., the Assistant County Attorney.

Mr. Wiseman wishes to discuss with you Mr. Nolan's request to grant an extension of the due date for memorandums in this case.

Thank you for your timely response.

Patti Zook
Legal Secretary
Baltimore County
Office of the Zoning Commissioner
410-887-3868
pzook@baltimorecountymd.gov

Donna King, esq.
410 769 8333 fax
410 494 1005 ph
309 W. Pennsylvania Ave
Towson 21204

To be returned to my file.

From: Bill Wiseman
To: Wiley, Debra
Date: 01/10/07 10:58:56 AM
Subject: Fwd: Galasso Exhibits

>>> James Nolan 01/10/07 10:43:07 AM >>>
Dear Mr. Wiseman,

I have attached as a pdf file Baltimore County's Exhibits 6, 7, 8 & 10. County Exhibit 9A & 9B were marked for ID only and will be retained in my file.

Each party's legal memorandum is due on February 13, 2007.

Thank you for your consideration in this matter.

James J. Nolan, Jr.
410-887-2654

Click here for a plain text ADA compliant screen.

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 08 **Account Number** - 2000011831

Owner Information

Owner Name:	GALASSO STEVEN L GALASSO JOANNE	**Use:**	COMMERCIAL
		Principal Residence:	NO
Mailing Address:	8509 THORNTON RD LUTHERVILLE MD 21093	**Deed Reference:**	1) /23642/ 637 2)

Location & Structure Information

Premises Address
10911 FALLS RD

Legal Description
ES FALLS RD
.97 AC
950 S SEMINARY AV

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No: Plat Ref:
60	13	825						2	

Special Tax Areas **Town** **Ad Valorem** **Tax Class**

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1947	4,450 SF	42,253.00 SF	04

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2005	Phase-in Assessments As Of 07/01/2006	As Of 07/01/2007
Land:	177,200	202,200		
Improvements:	130,600	135,500		
Total:	307,800	337,700	327,732	337,700
Preferential Land:	0	0	0	0

Transfer Information

Seller:	LONG CARROLL EDWARD	**Date:**	04/06/2006	**Price:**	$60,443
Type:	NOT ARMS-LENGTH	**Deed1:**	/23642/ 637	**Deed2:**	
Seller:	LONG CARROLL EDWARD	**Date:**	09/06/2001	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/15541/ 638	**Deed2:**	
Seller:	LONG HELEN L	**Date:**	12/11/1992	**Price:**	$1
Type:	NOT ARMS-LENGTH	**Deed1:**	/ 9505/ 89	**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2006	07/01/2007
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
* NONE *

PDIV0102F Permits & Development - Livability System
View Cases

Case No: 05-0457

Address: 10905 FALLS RD 21093
Insp Area: 008 Dist: 000 Date Rcv: 1/03/2002 Grp: ENF Intk: RAKD
Inspec: CHEN Inspec2: Date Inspec: 3/31/2006
Close: 0/00/0000 Activity: 02-0020 Delete:

Problem: NON-CONFORMING SERVICE GARAGE EXPANDED ZONING CASE DTD 11/7/02
02-419SPH, NON COMPLIANCE WITH HEARING OFFICERS ORDER DTD 10/28/2004
COMPLIANANT: PAUL MILLER 410-823-9200
CASE FORWARDED FROM 02-0020

CL Name: COUNCILMAN MCINTIRE
CL Address: 00000

CL Home Phone: CL Work Phone: 3387 Tax Acct. 2000011831

Owner: WILLIAM E LONG,10911 FALLS RD OCCUPANT: AUTOMOTIVE EMPORIUM INC
LUTHERVILLE MD 21093 R/A JO ANN GALASSO 3518 20 ELLEN RD 21244

Enter=Continue F12=Cancel

07-205-SPH

PDLV0102F Permits & Development - Livability System
View Cases

Case No: 05-8457

Address: 10905 -11 FALLS RD 21093
Insp Area: 008 Dist: 000 Date Rcv: 8/24/2005 Grp: ENF Intk: LW
Inspec: CHEN Inspec2: Date Inspec: 8/27/2006
Close: 0/00/0000 Activity: Delete:

Problem: BODY SHOP WORKING BEYOND NON CONFORMING LIMITATIONS, NON COMPLIANCE W/SITE PLAN. 2ND COMPL - BURNT TRASH TRUCK ON DRIVEWAY FOR 3 WEEKS, ANON - WALK-IN

CL Name: MCINTIRE COUNCILMAN
CL Address: 00000

CL Home Phone: CL Work Phone: 410-887-3387 Tax Acct. 2000011831

Owner: CARROLL E LONG

Enter=Continue F12=Cancel

07-205-SPH

PDLV0102F Permits & Development - Livability System
View Cases

Case No: 03-7404

Address: 10905 FALLS RD 21093
Insp Area: 014 Dist: 000 Date Rcv: 9/05/2003 Grp: ENF Intk: JT
Inspec: Inspec2: Date Inspec: 10/27/2003
Close: 11/07/2003 Activity: Delete: X

Problem: PARKING CARS FROM BUSINESS BEHIND THIS LOCATION (LUTHERVILLECOLLISION CTR), EMPLOYEES ARE PARKING ON SIDE OF THIS RESIDENTIAL PROP; REOPEN -ADDED TO FENCE HEIGHT, PAVING BEYOND SITE PLAN, GO TO REAR TO SEE VIOLATION, FLOOD PLAN, CHECK FOR PERMITS, COMPL/ROBERT MILLER, 11905 FALLS RD, 410 821 1668

CL Name: MILLER PAUL
CL Address: 11203 FALLS RD
LUTHERVILLE MD 21093
CL Home Phone: CL Work Phone: Tax Acct. 0000000000

Owner:

Enter=Continue F12=Cancel

07-205-SPH

PDLV0102F Permits & Development - Livability System
View Cases

Case No: 03-3537

Address: 10905 10911 FALLS RD 21093
Insp Area: 014 Dist: 000 Date Rcv: 5/21/2003 Grp: ENF Intk: R.S.W
Inspec: PROFILI Inspec2: Date Inspec: 10/28/2003
Close: 8/14/2003 Activity: Delete: X

Problem: MUD IN STREET; REOPEN - PILES OF CONCRETE, COMPL ANONYMOUS; 3RD COMPL - SERVICE GARAGE, OPEN DUMP, COMPL- ANONYMOUS; 4TH COMPL - DUMPING PILES OF STONES & DIRT IN YARD, INSTALLING PARKING LOT W/O APPROVAL FROM ZONING, YARD A MESS, SEE NOTE PAGE FOR 4TH COMPLAINANT MAP: 26 D 3

CL Name: R.S.W.
CL Address: 00000

CL Home Phone: CL Work Phone: 410-887-3373 Tax Acct. 2000011831

Owner:

Enter=Continue F12=Cancel

07-205-SPH

PDLV0102F Permits & Development - Livability System
View Cases

Case No: 02-0020

Address: 10905 FALLS RD 21093
Insp Area: 008 Dist: 000 Date Rcv: 1/03/2002 Grp: ENF Intk: RAKD
Inspec: CHEN Inspec2: Date Inspec: 3/31/2006
Close: 0/00/0000 Activity: Delete:

Problem: NON-CONFORMING USE, BODYSHOP, CARS PARKED FRONT LAWN, T & D;2ND COMPL - PROP IN VIOLATION RENDERED BY DEP.ZC ON 11/7/02, ZONING CASE 02-419-SPH, COMP L - PAUL MILLER, 2360 W JOPPA RD, 21093, 410 823-9200/W, 3RD COMPL - COMM VEH, PARKING DAMAGED VEHS, COMPL - ROBERT WILLIAMS, 410 821-1668/PHOTOS

CL Name: COUNCILMAN MCINTIRE
CL Address: 00000

CL Home Phone: CL Work Phone: 410-887-3387 Tax Acct. 2000011831

Owner:

Enter=Continue F12=Cancel

07-205-SPH

PDLV0102F Permits & Development - Livability System
View Cases

Case No: 01-7222

Address: 10905 FALLS RD 21093
Insp Area: 014 Dist: 000 Date Rcv: 1/13/2001 Grp: ENF Intk: PROPALIS ,D
Inspec: Inspec2: Date Inspec: 11/15/2001
Close: 11/16/2001 Activity: Delete: X

Problem: LUTHERVILLE COLLISION SIGN ERECTED WITHIN LAST 5 WEEKS, CHECK TO SEE IF PERMIT FILED FOR NEW SIGN, CHECK IF ANY SITE PLAN ON FILE;

CL Name: RITCHIE MS GEORGE
CL Address: 01011 FALLS CROFT WAY
21093
CL Home Phone: 410-252-6844 CL Work Phone: Tax Acct. 2000011831

Owner:

Enter=Continue F12=Cancel

07-205-SPH

PDLV0102F Permits & Development - Livability System
View Cases

Case No: 01-7085

Address: 10905 FALLS RD 21093
Insp Area: 014 Dist: 000 Date Rcv: 11/05/2001 Grp: ENF Intk: CLARK, R
Inspec: Inspec2: Date Inspec: 11/28/2001
Close: 11/29/2001 Activity: Delete: X

Problem: SIGN THAT LIGHTS AT NIGHT IN RIGHT OF WAY;

CL Name: TUNNEY LESLIE
CL Address: 10927 FALLS RD
21093
CL Home Phone: 410-828-7041 CL Work Phone: Tax Acct. 2000011831

Owner:

Enter=Continue F12=Cancel

07-205-SPH

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: **STEVEN GLASSO, *et ux***
CASE NO.: 07-205-SPH

DATE: September 25, 2007

BOARD/PANEL: Dr. Margaret Brassil, Chairman
Lawrence S. Wescott,
Wendell Grier

RECORDED BY: Linda B. Fliegel/Legal Secretary

PURPOSE: To deliberate – whether to terminate the nonconforming use at 10905-10911 Falls Road under Sec. 104.8 of the B.C.Z.R. which is in violation of the County Code.

PANEL MEMBERS DISCUSSED THE FOLLOWING

STANDING

- The Board had before them evidence of non-conforming use.
- The inspector(s) has/have been to the site on several occasions.
- Mr. Kotroco's Opinion was very explicit regarding the use of the property.
- There have been at least five (5) hearings for non-compliance.
- The Board sited *Prince George's Co. v. Gardner* regarding termination for non-compliance use.
- There was testimony given by neighbors to show that the property is being used to repair/paint passenger vehicles.
- Apparently, there was a contract with Nationwide to perform repairs on passenger vehicles.

DECISION BY BOARD MEMBERS

FINAL DECISION: After a thorough review of the facts and applicable law, the Board reached a unanimous decision to *GRANT* the termination of the non-conforming use of the property and that the Appellants shall convert the property to a use permitted, and in compliance with, in an R.C. 5 zone.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place that date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted

Linda B. Fliegel

Linda B. Fliegel
County Board of Appeals

10911 Falls Road

Map prepared by:
Baltimore County Office of Planning
401 Bosley Avenue
Towson, MD
21204

N

0 62.5 125 250
Feet

PLEASE PRINT CLEARLY

Petitioners

CASE NAME
CASE NUMBER
DATE

COUNTY REPRESENTATIVE'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
✓ JASON SEIDELMAN	COUNTY CODE ENFORCEMENT		
✓ MARK GRAVEL	County Code Enforcement		
✓ JEFF RADCLIFFE	County Code Enforcement		
✓ RICK WISNOM	Code Enforcement Hearing OFF.		
✓ JERRY CHER	C C Enforcer ✓		
✓ JEAN DILLON	207 - Courtland Dr	TOWSON MD	
✓ PAUL MILLER	PO BOX 725	BROOKLANDVILLE MD 21022	
✓ PAUL MILLER	STE 220 2360 W JOPPA	LUTHERVILLE MD 21093	
✓ Robert L. Williams	10701 Falls Rd.	Lutherville, MD. 21093	

PLEASE PRINT CLEARLY

CASE NAME_____
CASE NUMBER_____
DATE_____

COUNTY REPRESENTATIVE'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
JAMES J. NOLAN JR	400 WASHINGTON AVE	TOWSON MD 21204	jnolan@co.ba.md.us

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER _____
DATE _____

PROTESTANTS

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Donna King	309 W. Pennsylvania Ave	Towson, MD 21204	donnambking@verizon.net
~~PAUL G MILLER~~	~~11203 FALLS RD~~	~~LUTHERVILLE 21093~~	
William E. Long	1619 Alston Rd	Towson, MD 21204	502BILL@Comcast.net
Carroll E. Long	1619 Alston Rd	Towson MD 21204	
Steve Gallo	10905 Falls Rd	Lutherville, md 21093	

INDEX OF
CO.'S EXHIBITS

20070205 "A"
supplemental

(3)

IN THE MATTER OF: **DIRECTOR, PDM,** **BALTIMORE COUNTY, MD**	*** BOARD OF APPEALS** *** OF**
PETITIONER **STEVEN L. GALASSO, et ux,** **Legal Owners** **10905-10911 Falls Road** **Lutherville, MD 21093** **8th Election District** **2nd Councilmanic District** **RC 5 Zoning**	*** BALTIMORE COUNTY** ***** *** CASE NO. 07-205-SPH**

* * * * * * * * *

INDEX OF BALTIMORE COUNTY'S EXHIBITS

EXHIBIT #	DESCRIPTION	PAGE #
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2	Section 500 & 104, BCZR	2A
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Exhibit 1

IN RE: **PETITION FOR SPECIAL HEARING** E/S Falls Road (MD Route 25), 800' N of Greenspring Valley Road **(10905-10911 Falls Road)** 8th Election District 2nd Council District Steven L. Galasso et ux, Owners	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY **Case No. 07-205-SPH**

* * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by Baltimore County, Maryland, a body corporate and politic (Petitioner), through the Department of Permits and Development Management (DPDM). As filed, special hearing relief is requested, pursuant to Sections 500.6 and 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to determine whether to terminate the non-conforming service garage use at 10905-10911 Falls Road, due to continuing violations, and require the owner, tenant or entity having control of the land[1] (Respondents), to revert the use to one allowed under current R.C.5 zoning classification. The subject property is more particularly described on the plat that accompanied the petition and contained within the case file.

It should be noted at the outset that the Petitioner relies on B.C.Z.R. Section 104.8, however, this ordinance must be interpreted as a whole with the other non-conforming use provisions of Section 104 as opposed to an interpretation of Section 104.8 standing alone. In this regard, Section 500.6 of the B.C.Z.R. vests the Zoning Commissioner with the authority to

[1] Testimony demonstrated that Steven L. Galasso and his wife, JoAnne Galasso, are the current owners of the subject property. They purchased the property from William E. and Carroll E. Long in March and April of 2006 and have been, in one way or another, operating a service garage either as officer, director, stockholder, agent, employee, independent contractor or assignee of Valley Services Company, Specialty Automotive, LLC, Auto Emporium, Inc. and Lutherville Collision and Truck Center. Moreover, each of the individuals and entities named have received violation citations, attended Code Enforcement proceedings and contempt proceedings before the Circuit Court for Baltimore County for the illegal operation of a passenger vehicle body shop at this location

Exhibit 2

Section 500, Zoning Commissioner and/or Deputy Zoning Commissioner [EN] [BCZR 1955]

500.1 All applications to the Buildings Engineer for building permits shall be submitted to the Zoning Commissioner[EN] for approval by the Commissioner as to zoning before any permit shall be issued. Before approving any such application, the Zoning Commissioner shall be satisfied that the application is in proper form and contains all necessary information and that the proposed building or use of land, building or structure complies in all respects with the regulations then in effect with respect to zoning.

500.2 Petition for zone or district classification or reclassification.[EN]

A. Whenever a petition is presented to the Office of Planning[EN] for a zone or district classification or reclassification of a piece of property, or for a special exception, such petition may be filed with the Zoning Commissioner only if it meets the Zoning Commissioner's Rules of Practice and Procedure.[EN] Whenever the Office of Planning shall have acknowledged the adequacy of the petition in respect to such rules, including whatever site plan or other supporting material may be necessary, the petition may be filed with the Zoning Commissioner by the legal owner of the property or by his legally authorized representative. [Bill No. 85-1964;[EN] 40-1967]

B. A date for a public hearing before the Zoning Commissioner on the petition for the proposed zone or district classification or reclassification may then be scheduled, and such hearing shall be held not less than 30 nor more than 90 days after the date set on the Zoning Commissioner's acknowledgment of such filing. [Bill Nos. 85-1964; 40-1967]

500.3 In the event that the Zoning Commissioner shall refuse to grant a reclassification and upon appeal to the County Board of Appeals, the said Board shall order such reclassification, the Zoning Commissioner shall then forthwith submit said reclassification to the County Commissioners of Baltimore County,[EN] and upon their written approval thereof the said reclassification shall become effective and binding and shall constitute an amendment to the boundaries of the zoning districts.[EN]

500.4 In cases in which no building permit is required, any person desiring to use any land for any purpose other than that for which said land is being used at the time of adoption of this Order and Resolution[EN] shall make application to the Zoning Commissioner for a use permit, upon such form as the Zoning Commissioner may prescribe. If such use is permissible the Zoning Commissioner may issue a use permit, conditioned by other provisions contained in the regulations which shall indicate that it authorizes the particular use applied for. [Resolution, November 21, 1956]

500.5 In cases of petitions for special exceptions under Section 502 of these regulations, the Zoning Commissioner shall receive such petitions in such form as he may prescribe. He shall hold a public hearing thereon after giving public notice of such hearing as above provided with respect to petitions for reclassification. After such a hearing he shall pass his order granting or refusing such special exception.[EN]

500.6 In addition to his aforesaid powers, the Zoning Commissioner shall have the power, upon notice to the parties in interest, to conduct hearings involving any violation or alleged violation or noncompliance with any zoning regulations, or the proper interpretation thereof, and to pass his order thereon, subject to the right of appeal to the County Board of Appeals as hereinafter provided.

500.7 The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning

2B

Exhibit 3

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: November 20, 2006

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 10911 Falls Road

INFORMATION:

Item Number: 7-205

Petitioner: Baltimore County Department of Permits and development Management

Zoning: RC 5

Requested Action: Termination of non- conforming use

Pursuant to Section 104.8, the Zoning Commissioner may terminate a non-conforming use and require the use to revert to a use allowed under the existing zoning classification. The legal brief accompanying the petition contains an abundance of well-documented information that in the opinion of the Office of Planning should establish that the non-conforming use for the repair of classic cars and trucks has ceased. The courts have established that Lutherville Collision's use of the property for the bodywork and repair of passenger automobile cars and trucks is a zoning violation.

SUMMARY OF RECOMMENDATIONS:

Should the Zoning Commissioner rule that the non-conforming use has been abandoned, the property owner must convert the property to a legally permitted RC5 use. In the event that the use is a single-family residence the Office recommends the following restrictions:

1. If the existing office known as 10911 Falls Road is converted to a single family dwelling, obtain a side yard setback variance for a 4-foot side yard setback in lieu of the required 50 feet. The Office of Planning is required to issue a finding of compliance with the RC5 zone prior to issuance of any building permits.
2. Note on any future plans that the property is within the traffic shed of Falls Road and Greenspring Valley Road, which is operating at an "F" Level of Service.
3. Note on any future plans that Falls Road is a scenic route.
4. Note on any future plans that the existing building known as 10911 Falls Road is historic. It is on the County Register (MHT)# BA-1590 and is a contributing structure in the Greenspring Valley National Register District. Any future demolition requests must be reviewed by the Baltimore County Landmarks Commission and may require an administrative special hearing.
5. Raze the existing repair shop after appropriate planning review if required (i.e. landmarks preservation).

COUNTY EXHIBIT 1

Bill 105-06

104.8 AFTER NOTICE AND HEARING, THE ZONING COMMISSIONER MAY TERMINATE A NONCONFORMING USE AND REQUIRE THE USE TO REVERT TO A USE ALLOWED UNDER THE EXISTING ZONING CLASSIFICATION IF THE HEARING OFFICER HAS PREVIOUSLY DETERMINED, AFTER A CODE ENFORCEMENT HEARING UNDER ARTICLE 3, TITLE 6 OF THE CODE:

A. THAT THE OWNER, TENANT OR ENTITY HAVING CONTROL OF THE LAND OR USE IS IN VIOLATION OF THE COUNTY CODE, AS DEFINED IN ARTICLE 3, AND THAT THE VIOLATION IS CONTINUING; OR

B. THAT THE OWNER, TENANT OR ENTITY HAVING CONTROL OF THE LAND OR USE IS IN VIOLATION OF THE COUNTY CODE FOR THE SAME OFFENSE ON MULTIPLE OCCASIONS.

SECTION 2. AND BE IT FURTHER ENACTED, that this Act, having been passed by the affirmative vote of five members of the County Council, shall take effect on September 8, 2006.

b10506.wpd

COUNTY EXHIBIT 2

Letter to Steven and JoAnne Galasso dated 11/29/06

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

November 29, 2006

Steven & JoAnne Galasso
8509 Thornton Road
Lutherville, MD 21093

Dear Mr. & Mrs. Galasso:

RE: Case Number: 07-205-SPH, 10905-10911 Falls Road

The above matter, previously scheduled for January 3, 2007, has been postponed. The hearing has been rescheduled and the notice reflecting this change is attached.

Please be advised that the responsibility of the appropriate posting of the property is with the Petitioners. The petitioner or his/her agent may not personally post or change a zoning sign. One of the currently approved vendors/posters must be contacted to do so. If the property has been posted with the notice of the original hearing date, as quickly as possible after you have been notified, the new hearing date should be affixed to the sign(s).

Very truly yours,

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

C: Wilhalm & Carroll Long
Valley Services
Automotive Emporium
Specialty Automotive

5

COUNTY EXHIBIT 3 A & 3 B

Notices of Zoning Hearings

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

November 30, 2006
TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

NEW NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 07-205-SPH
10905-10911 Falls Road
E/side of Falls Road (State Route 25), 800 feet north of Greenspring Valley Road
8th Election District – 2nd Councilmanic District
Legal Owners: Steven L. & JoAnne Galasso
Contract Purchaser/Petitioner: Timothy M. Kotroco, Baltimore County Department of Permits & Development Management

Special Hearing for the petitioner respectfully requesting that the Zoning Commissioner enter the attached Order scheduling a Special Hearing to determine whether to terminate the nonconforming use at 10905-10911 Falls Road under Section 104.8 of the BCZR and providing notice of said hearing to the persons or entities who are either the owners, tenant or entities having control of the land or use which is in violation of the County Code.

Hearing: Tuesday, January 9, 2007 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Steven & JoAnne Galasso
Wilham & Carroll Long
Specialty Automotive, LLC
Automotive Emporium, Inc.
Valley Services

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, DECEMBER 23, 2006.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Thursday, December 21, 2006 Issue - Jeffersonian

Please forward billing to:
Timothy Kotroco, Director 410-887-3391
Baltimore County Department of Permits & Development Management
111 West Chesapeake Avenue
Towson, MD 21204

CORRECTED NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 07-205-SPH
10905-10911 Falls Road
E/side of Falls Road (State Route 25), 800 feet north of Greenspring Valley Road
8th Election District – 2nd Councilmanic District
Legal Owners: Steven L. & JoAnne Galasso
Contract Purchaser/Petitioner: Timothy M. Kotroco, Baltimore County Department of Permits & Development Management

Special Hearing for the petitioner respectfully requests that the Zoning Commissioner enter the attached Order scheduling a Special Hearing to determine whether to terminate the nonconforming use at 10905-10911 Falls Road under Section 104.8 of the BCZR and providing notice of said hearing to the persons or entities who are either the owners, tenant or entities having control of the land or use which is in violation of the County Code.

Hearing: Tuesday, January 9, 2007 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

COUNTY EXHIBIT 4

Correction Notice

Exhibit 4

nore County
L rtment of Permits and
Development Management

Code Inspecti Enforcement
County Offic ig
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No.	Property No.	Zoning:
02-00270	2000011931	RC-5

Name(s): William Long
10905 Falls Rd

Address: Balto. Md. 21204 21093

Violation Location: 10905-11 Falls Rd 21093

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

Occupant Lutherville Collision & Truck Center
c/o Steve Galasso
10905 Falls Rd
Lutherville, Md. 21093

BCZR 1A04.1; 102.1 104 405A.1; 405A.2; 409, 500.4 500.9
Cease the operation of a service garage without a hearing for a non-conforming use or apply for an appointment for zoning review & file for a non conforming use.

Please Note: The compliance date is based upon the business continuing to be in compliance with the current commercial regulations until official non-conforming use is confirmed.

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

On or Before:	Date Issued:
3/9/02	2/9/02

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF $200, $500, OR $1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name: WASILOWSKI

INSPECTOR: Wasilowski

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN:

ot	in:	Date Issued:

SPECTOR: _____

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AGENCY

Plaintiff's Exhibit 9

COUNTY EXHIBIT 5

Petition for Special Hearing signed by Steve Galasso as Contract Purchaser/Lessee

Exhibit 5

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 10905-10911 FALLS ROAD

which is presently zoned R.C.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve THE CONTINUATION OF A NONCONFORMING USES IN ACCORDANCE WITH SECTION 104, NONCONFORMING USES OF THE BCZR.

TO DETERMINE IN ACCORDANCE WITH SECTION 405A OF BCZR. THE SCREENING OF THE PREMISES REQUIRED BY SECTION 405A.1;

TO DETERMINE THAT THIS PROPERTY IS NOT CONSIDERED RESIDENTIAL AND THEREFORE SECTION 428 OF BCZR DOES NOT APPLY;

TO DETERMINE THAT THIS PROPERTY IS NOT CONSIDERED RESIDENTIAL AND THEREFORE SECTION 431 OF BCZR IS NOT APPLICABLE

AND SUCH OTHER ITEMS RELATED TO THE NONCONFORMING USE AS MAY BE PRESENTED AT THE HEARING.

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

LUTHERVILLE COLLISION & TRUCK CENTER

Name - Type or Print STEVE GALASSO - OWNER

Signature

10905 FALLS ROAD 410-296-5025

Address Telephone No.

LUTHERVILLE MD 21093

City State Zip Code

Legal Owner(s):

WILLIAM E. LONG

Name - Type or Print

Signature

CARROLL E. LONG

Name - Type or Print

Signature

10911 FALLS ROAD

Address Telephone No.

LUTHERVILLE MD 21093

City State Zip Code

Attorney For Petitioner:

J. CARROLL HOLZER, ESQ.

Name - Type or Print

Signature

J. CARROLL HOLZER

Company HOLZER & LEE

508 FAIRMOUNT AVE. 410-825-6961

Address Telephone No.

TOWSON MD 21204

City State Zip Code

Representative to be Contacted:

J. CARROLL HOLZER, ESQ.

Name

508 FAIRMOUNT AVE. 410-825-6961

Address Telephone No.

TOWSON MD 21204

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By BM Date 3/28/02

Case No. 02-419-SPH

Reviewed By _____ Date 10/15/98

Defendants' Exhibit 2

COUNTY EXHIBIT 6

Galasso Business Card

Exhibit 6

Steve Galasso
Owner

Specializing in
Foreign & Domestic
as well as large trucks

LUTHERVILLE COLLISION
& Truck Center

10905 Falls Road
Lutherville, MD 21093

Phone: 410-296-5025
Fax: 410-296-3710

COUNTY EXHIBIT 7

Newspaper Ad

Exhibit 7

Village Market

SERVICES

Snapping turtles removed from your pond. Also, other nuisance animals caged, ground hogs, etc. Licensed by state. Call 410-833-0727.

SCOTT ADAM THERAPEUTIC MASSAGE specializes in effective pain and stress relief. We offer: Swedish, deep tissue, myofascial, Reiki, healing stone massage, aromatherapy and acupuncture. Gift certificates available. To schedule an appointment in our Hunt Valley office, call 410-628-7993.

Summer Clean-up -- Mowing, Tree & Tree Limb Removal, Gutter Cleaning, Hedge & Bush Trimming, Hauling, Topsoil, etc. Free estimates. Call 410-429-4303.

ZACHARY PAINTING -- Interior & exterior, staining, powerwashing, decks. Better Business Bureau member, licensed & insured. MHIC#60360. Quality work, honest & dependable. Call Michael at 410-668-2405 for a free estimate.

PANE FREE WINDOW CLEANING - Residential, small store fronts, new construction, strip mall, commercial. Insured. Call 410-526-7721.

REPAIR DOCTOR -- The small job specialist for all your home repair needs. Shelving, caulking, child proofing, picture hanging, electrical, plumbing, carpentry, etc. Call Bruce at 410-628-7855.

Think of yourself as healthy? Find out by having a personal medical and emotional history screening done by an RN who uses therapeutic touch as part of the evaluation process. An objective, written stress test is also an important additional assessment which is part of this work up. What you don't know CAN hurt you. For more information or to schedule an appointment, call Deborah at 410-472-2226. Mention The Crier and get an additional discount.

Farm Services - Fields and lots mowed, pasture renovation, seeding and soil preparation, light land clearing. Delivery available. Call Schwatka Farm Services at 410-584-2759.

Drinking Water Analysis -- Cassell Testing Inc. is a state-certified laboratory. Tests performed for real estate, U&O or self. Please call 410-252-7742.

SERVICES

Kathy's Home Catering -- Personal chef will cook for 2 or 200. One night or longer. At your home or will cater. Will design menu to fit your palate, kosher requirements, etc., soup to nuts. Incredible references available. Call 410-377-6617.

CABINETMAKER/WOODWORKER - Custom hand-crafted, built-in cabinets, bookcases, entertainment centers, furniture moldings and more. Free estimates and design service. WOODWORKING, ETC. MHIC #111345. Call Bert Graham 410-435-6871 or visit www.woodworkingetc.com.

MISCELLANEOUS

FAITH LUTHERAN CHURCH - A family in Christ. Visit our Summer Services 9:15 am to Sept. 1. 8 Sherwood Rd., Cockeysville. Refreshments following service with pastor Oren Fehlhaber.

St. Jude's Novena -- May the sacred heart of Jesus be adored, glorified, loved and preserved throughout the world, now and forever. Sacred heart of Jesus, pray for us. St. Jude, worker of miracles, pray for us. St. Jude, help of the hopeless, pray for us. Say this prayer nine times a day for nine days. By the ninth day, your prayers will be answered. It has never been known to fail. Publication must be promised. My prayers have been answered. Thank you sacred heart of Jesus and St. Jude, once again for answering my prayers. I am so grateful. M.J.R.

Prayer to the Blessed Virgin (never known to fail) - O most beautiful flower of Mt. Carmel, fruitful vine, splendor of heaven, Blessed Mother of the Son of God. Immaculate Virgin assist me in my necessity. O Star of the Sea, help me & show me here you are my mother. O Holy Mary, Mother of God, Queen of Heaven & Earth, I humbly beseech you from the bottom of my heart to succor me into my necessity (make request). There are none that can withstand your power. O Mary, conceived without sin, pray for us who have recourse to thee (3 times). Holy Mary, I place this cause in your hands (3 times). Say this prayer for 3 consecutive days. Then you must publish it & it will be granted to you. M.J.R.

COUNTY EXHIBIT 8

11/7/02 Findings of Fact and Conclusions of Law of Deputy Zoning Commissioner
&
1/7/03 Order on Motion for Reconsideration

IN RE: PETITION FOR SPECIAL HEARING E/S Falls Road, 930' S centerline of Seminary Avenue 8th Election District 3rd Councilmanic District (10905-10911 Falls Road)	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 02-419-SPH
William E. & Carroll E. Long, *Legal Owners* **and** Lutherville Collision & Truck Center, *Lessee* *Petitioners*	*	Exhibit 8

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by the legal owners of the subject property, William E. Long and Carroll E. Long, and the lessee of the site, Lutherville Collision & Truck Center The special hearing request involves property located at 10905-10911 Falls Road in the Lutherville area of Baltimore County. The special hearing request is to approve the continuation of a non-conforming use pursuant to Section 104 of the Baltimore County Zoning Regulations (B.C.Z.R.); to determine, in accordance with Section 405.A of the B.C.Z.R., the screening of the premises required by Section 405.A.1; to determine that the property is not considered residential and, therefore, Section 428 of the B.C.Z.R. does not apply; to determine that the property is not considered residential and, therefore, Section 431 of the B.C.Z.R. is not applicable; and for such other items relating to the non-conforming use as may be presented at the hearing.

Appearing at the hearing on behalf of the special hearing request were William, Carroll and June Long, appearing on behalf of the owners of the property, JoAnne and Steve Galasso, appearing on behalf of the lessee of the site, and J. Carroll Holzer, attorney at law, representing the Petitioners. Appearing in opposition to the Petitioners' request were several residents of the surrounding community, some of whom were represented by Robert D. Sellers, attorney at law. Mr. Jack Dillon, Executive Director of the Valleys Planning Council, also attended the hearing.

Testimony and evidence demonstrated that the property, which is the subject of this special hearing request, is located on the east side of Falls Road, midway between the intersections of Greenspring Valley Road and Seminary Avenue with Falls Road. The subject property is improved with a number of buildings, all of which are represented on Petitioners' Exhibits 1A and 1B, the site plans filed to accompany the special hearing request. The property also contains parking areas whereupon employee and customer vehicles are currently parked. At issue in this case is the present use of the subject property by Lutherville Collision & Truck Center. The property owner, by and through J. Carroll Holzer, their attorney, asserts that the use of the subject property by Lutherville Collision & Truck Center is an appropriate continuation of the longstanding commercial use, which has occurred on the property for more than 150 years. To the contrary, the citizens who attended the hearing and Mr. Robert Sellers, their attorney, argue that the property enjoys no such non-conforming use and that the use presently occurring on the subject property is a drastic enlargement or extension of what has occurred on the property in the past.

The testimony and evidence offered by the Petitioners demonstrated that the subject property has been in continuous ownership by the Long family since 1849 until the present time. The property was always used in some type of commercial fashion since 1849, when John Long, Jr., along with business associate, Levi Justice, opened a wheelwright and blacksmith business on the subject property. In fact, the family business was advertised in the 1877 edition of The Atlas of Baltimore County, Maryland as "a manufacturer of heavy farm and express wagons, repairing of all kinds done at short notice at lowest rates". The family business made the transition from horse-drawn vehicles to motorized vehicles as the internal combustion engine developed. The business, which operated from the property, transformed itself from a manufacturer of horse-drawn wagons to the manufacture and construction of large truck bodies.

Apparently, the early automobile makers developed and sold passenger automobiles in ready to use condition. However, larger trucks were manufactured only as cab and chassis, and sometimes manufactured without the cab itself. The Long family, at that time, specialized in the construction of wood frames and truck bodies which were built upon these blank chassis and cabs that were manufactured by the large auto and truck manufacturers.

At the time of the end of WW II, Mr. Carroll Long (the third generation of Long's to operate the family business), returned from service from WW II. At that time, the family business continued to specialize in the construction, manufacture, painting, and customizing of large truck bodies, which at that time had evolved to steel and aluminum over wood frames. The Long family developed a fine reputation as one of the best customizers of large tractor-trailer type of trucks, fire engines and fire equipment, government and military vehicles, and other similar large and big box trucks. Over the past few decades, the family has continued with the painting, service, and repair of these specialized vehicles, although in recent times the amount of vehicles serviced on the property has reduced significantly. The name of the business has also evolved over the years and the operation is known today as "Valleys Services Company".

It is also important to note the dates that certain buildings and structures were erected on the subject property. The Petitioners have submitted into evidence building permits dated December 13, 1946 and July 8, 1957. The 1946 permit approved the construction of a 36' x 46' x 13' building, set back approximately 150 feet from Falls Road. The 1957 permit allowed for an addition to the previously approved building. These buildings have been used by the Long family in connection with their painting, repair, construction and manufacturing of trucks and truck bodies.

Naturally, the property surrounding the buildings located on the site has been used for the parking and storage of vehicles awaiting service by the Long family. The testimony offered at

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the hearing also demonstrated the areas whereupon these vehicles were stored, both before and after service was performed on them. The Long's operated their family business from the subject site for more than a century and a half without any problems or incidents with Baltimore County or their surrounding neighbors.

The purpose of the filing of the special hearing before me results from Mr. Steve Galasso, owner of the Lutherville Collision & Truck Center commencing the operation of his business from the subject property on or about September, 2001. Mr. Galasso owns and operates a very successful automobile collision, paint, and repair facility on Liberty Road. That enterprise continues to operate today. Mr. Galasso was interested in opening a second automobile, paint and repair facility at the property owned by the Long family. Mr. Galasso has been operating his business from the subject property for the past year. No new buildings have been constructed on the property in order to accommodate this new business. Mr. Galasso operates out of the existing service and paint shop, from which the Long's have operated their business for the past many decades. Testimony did reveal that Mr. Galasso installed a newer and more modern ventilation system on the paint shop to better exhaust paint fumes, which result from the painting of automobiles. In addition, Mr. Galasso has installed some privacy fencing around the area where the Long's routinely stored and kept vehicles awaiting service. Furthermore, a new sign has been erected on the property identifying the business on site as the Lutherville Collision & Truck Center. The position of the Petitioners is that Mr. Galasso's business is an intensification of the longstanding non-conforming use, which has existed on the property for over 150 years. They, therefore, ask that the special hearing be granted to allow Mr. Galasso to continue to operate the business known as "Lutherville Collision & Truck Center" from the subject site.

As stated previously, many residents of the surrounding community appeared and testified in opposition to the Petitioners' request. These residents indicated that they never had

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any problem and did not take issue with the method and manner by which the Long's operated their business from the subject site. The Long's business was fairly subdued, involving only the occasional painting, repair, and modification of specialty vehicles. Most of the residents living around the Petitioner's property were not even aware that Mr. Long continued to do business on site. However, according to the testimony offered at the hearing, this all changed in September of 2001 when Mr. Galasso's business moved onto the property.

The testimony of the surrounding neighbors demonstrated that the noise and paint fumes emanating from the subject property, resulting from Mr. Galasso's business, have become unbearable. These neighbors also witnessed dumpsters which routinely overflow with trash as a result of the high volume of paint and repair work occurring on the site. The neighbors have also complained over the manner in which cars are parked on the property. Many residents testified that customers of the Lutherville Collision & Truck Center, along with employees, park their automobiles in the front yard of what use to be the old residence on the property in the grassy area along Falls Road. These cars are parked in a haphazard fashion, resulting in an eyesore to motorists who pass by on Falls Road. It also gives the appearance that the property is over commercialized and that the amount of business taken in by this Petitioner exceeds the capacity of the property given that there is not a sufficient amount of parking available to accommodate the many vehicles on site.

Neighbors also complained regarding the disruption of traffic flow along Falls Road at the entrance to the Petitioners' property. Falls Road at this location narrows to a two-lane highway and carries a tremendous volume of traffic, particularly during the peak rush hours. Damaged and disabled vehicles are delivered to the Petitioners' property by way of large rollback tow trucks, which at times come to a complete stop on Falls Road and back into the Petitioners' site. This, in the opinion of the surrounding residents, is disruptive and dangerous to

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the flow of traffic in this area. According to the citizens, this type of activity was never noticed by the surrounding residents during the time the Long's operated their business on the property.

Some residents complained that the Petitioners' business operates into the late hours of the evening, which is disruptive to their quiet enjoyment of their properties. This too was not experienced when the Long's operated their business. In addition, the protestants argue that Mr. Galasso operates his business on areas of the property that were not historically used by the Long's and which are not properly part of the non-conforming portion of the business operated by the Long family.

It is clear, based upon the testimony and evidence offered at the hearing, that the subject property does in fact enjoy a legal non-conforming use for the business which has historically been owned and operated by the Long family. That is, the property owners may continue to operate the Valley Services Company from the subject site. That use has existed on the property since prior to 1945 and has continued uninterruptedly up until the present date. That non-conforming use comprises the painting and modification of large trucks and specialty vehicles such as ambulances, fire suppression equipment, large government and military vehicles, tractor cabs and other such similar vehicles. The business operated by the Long family was not the object of the Protestants' testimony. Furthermore, I find that the Long's business may continue to operate in the larger service building containing 4,842 sq. ft., as identified on the site plan. There was some question as to the time when this building was constructed and where a prior commercial zoning line may have existed. However, it was clear, based on the testimony and evidence presented, that this particular area of the Petitioners' property whereupon this building is situated was historically and traditionally used in furtherance of the Long's business. Therefore, the entire service building containing 4,842 sq. ft., along with the driveway and

parking areas in front of this building may continue to be used by the Valleys Services Company as outlined above.

The larger question in the case is whether Mr. Galasso may continue to operate the Lutherville Collision & Truck Center from the subject property under the non-conforming use established by the Long family. The Court of Special Appeals, in the case of McKemy v. Baltimore County, 39 Md. App. 257, 385 A.2d 96 (1978), established four factors which are to be considered in determining whether a particular activity is within the scope of a non-conforming use.

The first factor to consider is to what extent does the current use of the property reflect the nature and purpose of the original non-conforming use. In my judgment, based upon the testimony and evidence offered at the hearing, the current use of the property by Mr. Galasso does not reflect the nature and purpose of the original business use of the property by the Long family. The Long family's business was that of painting, repair and modification of large trucks and specialty vehicles. For the most part, it evolved into a very specialized business with a limited customer base. Furthermore, the Long's business serviced large vehicles on an infrequent basis. The business operated today by Mr. Galasso on the property is a high volume business servicing passenger automobiles and light trucks owned by the general public. Vehicles are parked about the property in a scattered and haphazard fashion. Cars are jockeyed about the property by employees and customers who are awaiting repair to their vehicles. Parking is occurring in areas of the property not previously used in that manner. On the other hand, the business operated by the Long family was orderly and very structured. The old photographs submitted into evidence and the testimony revealed that the Long's were very methodical in the operation of their business. Accordingly, the extent of the current use on the property does not reflect the nature and purpose or the manner in which the property was historically used.

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The second factor to consider is whether the current use is merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature and kind. As stated previously, the use of the property today by Mr. Galasso constitutes a use different in character and nature than the use conducted by the Long family. The standard automobile and collision repair facility which is being operated today by Mr. Galasso is similar to many other types of facilities in Baltimore County and is different in character and nature than the specialized business operated by the Long family. Stated another way, the types of vehicles routinely worked upon by the Long's, such as fire engines and ambulances, military vehicles and large tractor trailers, are not the types of vehicles one would commonly find awaiting service at your typical automobile collision and repair facility. The Long's operated a facility which was highly specialized and only applied to a small segment of the automotive manufacturing community. Accordingly, the use conducted by Mr. Galasso's company is in fact different in character, nature, and kind than the historical use of the property. Lutherville Collision & Truck Center has failed to satisfy this second requirement.

The next factor to be considered is whether the current use has a substantially different effect upon the neighborhood. In my judgment, based upon the testimony and evidence offered at the hearing, the use by Mr. Galasso certainly has a substantially different effect on the surrounding neighborhood. Several examples of this were brought out at the hearing. The use of the property today by Mr. Galasso has a different visual effect upon the surrounding neighborhood. That is, the testimony revealed the overcrowding of the property with automobiles awaiting repair. There are also automobiles parked in a haphazard fashion on the grassy lawn of the subject property just off Falls Road. This visual effect is very different than what was traditionally associated with the Long's use of the property. Several citizens testified that there was little visual impact by virtue of the Long's use of the property. Several citizens

indicated that they were unaware that the Long's operated a truck repair facility from the subject site. However, since Mr. Galasso's business has occupied the property, the visual impact has been tremendous. Secondly, the protestants stated that the effects of noise and paint odors have increased drastically since the Lutherville Collision & Truck Center moved to the site. Again, several residents testified that the noise associated with Mr. Galasso's use of the property is far and above that which was historically associated with the Long family. The same was true regarding the odors associated with the automobile painting that is occurring on the property. This was not attributable to the Long's use of the property. Finally, the citizens testified that the impact on traffic along Falls Road, as a result of Mr. Galasso's use of the property, is very different than that associated with the Long's use of the property. Accordingly, based on the testimony offered at the hearing, I find that the current use by Lutherville Collision & Truck Center does have a substantially different effect upon the neighborhood than the traditional use of the property by the Long family.

The final factor to consider is whether the current use of the property is a drastic enlargement or extension of the original non-conforming use. The testimony offered at the hearing demonstrated that there has been a tremendous increase in activity on the subject property as a result of Mr. Galasso's business locating thereon. The number of employees has increased, the amount of vehicles coming and going to the subject site has increased, and the number of vehicles, both awaiting repair and those belonging to employees, have cluttered the property. Portions of the property are being used today which were not used previously. The paint fumes being disbursed into the air by Mr. Galasso's business have had an effect on adjacent property owners over and above that which was formerly associated with the Long's use of the property. Accordingly, I find that the current use is a drastic enlargement or extension of the

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original non-conforming use and is not to be considered an intensification of the traditional and historic use of the property by the Long family.

After considering the testimony and evidence offered at the hearing, in light of the four-prong test as stated in McKemy, I find that the use of the subject property by Mr. Galasso and the Lutherville Collision & Truck Center is beyond the scope of the non-conforming use as established by the Long family on the subject site. Accordingly, it is not appropriate for the Lutherville Collision & Truck Center to continue to operate its business from the subject property. The business known as the "Valley Services Company", which has been operated by the Long family since 1849, is permitted to continue to operate from the subject site. However, Mr. Galasso's current use of the property is not to be considered an intensification of that historical non-conforming use and, therefore, must cease and desist immediately.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 7th day of November, 2002, that the Petitioners' Request for Special Hearing to approve the use of the subject property by the Lutherville Collision & Truck Center for the painting and repair of automobiles in the fashion demonstrated at the hearing before me, be and is hereby DENIED.

IT IS FURTHER ORDERED, that the remaining questions posed by the special hearing request filed by the Petitioners as they relate to the business known as Lutherville Collision & Truck Center , be and they are hereby DENIED.

IT IS FURTHER ORDERED, that the business known as the "Valley Services Company", which has been owned and operated by the Long family since 1849 until the present time, shall be permitted to continue to operate from the site as it has for the past 150 years. This is truly a non-conforming use as established by the testimony and evidence presented at the hearing. Therefore, the denial of the special hearing request as it pertains to the Lutherville

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Collision & Truck Center shall not affect the ability of the Long family to continue to operate their business from this property as they have in the past.

IT IS FURTHER ORDERED that any appeal of this decision must be made within thirty (30) days of the date of this Order.

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

a8

LW

02-420

IN RE: PETITION FOR SPECIAL HEARING E/S Falls Road, 930' S centerline of Seminary Avenue 8th Election District 3rd Councilmanic District (10905-10911 Falls Road)	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY
	*	CASE NO. 02-419-SPH
William E. & Carroll E. Long, *Legal Owners* **and** Lutherville Collision & Truck Center, *Lessee* *Petitioners*	*	

* * * * * * * * * * *

ORDER ON MOTION FOR RECONSIDERATION

WHEREAS, this matter came before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by the legal owners of the subject property, William E. Long and Carroll E. Long, and also the Lutherville Collision & Truck Center, the tenant of the site. The purpose of the special hearing was to approve a service garage use on the subject property as a nonconforming use. That particular request was granted in part by my Order dated November 7, 2002.

Thereafter, on November 27, 2002, Mr. Carroll Holzer filed on behalf of his clients a motion for reconsideration requesting that the owners of the property, William E. Long and Carroll E. Long, be permitted to repair and paint automobiles in conjunction with the approval granted to them to repair, paint and customize trucks and specialty vehicles. Submitted along with the motion for reconsideration were photographs of automobiles that were repaired on the property by the Long's in the past. Also submitted were two affidavits, one of which was signed by William E. Long and the other by Carroll E. Long.

After the submittal of the motion for reconsideration, Mr. Robert Sellers, attorney for the protestants in the case, filed a response which was received in this office on December 27, 2002.

It should be noted that an extension of time was granted to Mr. Sellers regarding the response filed by his office.

After considering the motion for reconsideration and the response filed by Mr. Sellers, I find it is appropriate to modify my Order dated November 7, 2002 in an extremely limited fashion. The testimony presented at the hearing and the photographs submitted therein did demonstrate that the owners of the property, William and Carroll Long, on a very limited basis, did perform painting and customizing work to antique and classic vehicles. The restoration of an antique or classic vehicle shall be permitted to continue to occur on the property by the Valley Services Company. This shall not in any way be interpreted to permit the repair and painting of the average passenger vehicle as was taking place on the property by the Lutherville Collision & Truck Center.

Therefore, I believe it is appropriate to expand upon my original approval that was granted to the Long family, to allow them, in addition to the painting and modification of large trucks and specialty vehicles such as ambulances, fire suppression equipment, large government and military vehicles, tractor cabs and other such similar vehicles, to include the painting and repair of classic and antique automobiles only. This expansion on my previous approval shall in no way be interpreted to permit the repair and painting of the average automobile by anyone on the property.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 7th day of January, 2003, that the Motion for Reconsideration be GRANTED, to allow the Long family and the Valley Services Company to also repair and paint antique and classic automobiles on the subject property in addition to the approval previously granted to them in my Order dated November 7, 2002.

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IT IS FURTHER ORDERED, that all other findings made in my previous order shall remain in full force and effect.

IT IS FURTHER ORDERED that any appeal of this decision must be made within thirty (30) days of the date of this Order.

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

(31)

COUNTY EXHIBIT 9

Orders

1st Code Enforcement

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

Exhibit 9

In the Matter of

Civil Citation No.02-0020C

Steve Galasso, T/A
Lutherville Collision and Truck Center

10905-11 Falls Road

Respondent

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on October 4, 2004 for a hearing on a citation for violations under the Baltimore County Zoning Regulations § 1A04.1, 500.6, 500.7, 409.8.A.2, for failing to comply with the Findings of Fact and Conclusions of Law of the Deputy Zoning Commissioner, wherein it was ordered to cease and desist immediately the painting and repair of automobiles by Lutherville Collision and Truck Center; and failure to cease parking in restricted area on residential property zoned RC 5 located at 10905 Falls Road, 21093.

On July 6, 2004, pursuant to § 3-6-205, Baltimore County Code, a code enforcement citation was issued by Len Wasilewski, Code Enforcement Officer. The citation was legally served on the Respondent.

The citation proposed a civil penalty of $67,000.00 (sixty seven thousand dollars) to be assessed. A code enforcement hearing date was scheduled for August 25, 2004 rescheduled to October 4, 2004.

James J. Nolan, Esquire presented the case for Baltimore County.
Arnold Jablon, Esquire and David Karceski, Esquire represented the Respondent.
Gary Freund, Code Enforcement Officer also testified.

November 3, 2004

County Exhibits #1-26 are presented in packet form:

#27: A, B, & C Photographs taken by Mrs. Shelhosse

#28: Copy of business card for Lutherville Collision and Truck Center

Respondent's Exhibits:

#1. Deed dated August 14, 2001 by Carroll Long and William Long showing life estate.
#2. Articles of Incorporation of Automotive Emporium, Inc.
#3. Confirmatory Lease with amendments between Carroll E. Long (together with wife) and Automotive Emporium, Inc., "Leasee"
#4. Commercial Lease between Automotive Emporium, Inc. and Carroll Long.
#5. Entire Code Enforcement file #02-0020 entered by Mr. Jablon.
#6. Deed of April 15, 2004 between Bobby Widener and Steven L. and Joanne Galasso purchase of Hereford site.
#7. HUD settlement statement for Hereford site-16913, 6915, 16917 York Road, Monkton, MD 21111.
#8. Zoning verification for Hereford site-16913-17 York Road.
#9. Current business card used by Steve Galasso for past two years.
#10. Tax Form for S Corporation.

Above the objections of Mr. Jablon, it was decided to hear evidence and testimony in the case of Baltimore County versus Lutherville Collision and Truck Center and owner Steve Galasso. *Notwithstanding Respondents Exhibit #2, 3, and 4 showing the Articles of Incorporation of Automotive* Emporium, the Commercial Lease made between Automotive Emporium Inc. and William Long, representative of Carroll and Mary Long, and the Confirmatory Lease with amendments between Carroll Long (and wife) and Automotive Emporium, Inc. It is clear that Lutherville Collision and Truck Center *is a place of business operated by Steve Galasso. Baltimore County Code (BCC) § 32-3-601* defines defendant as (1) is charged with violating the Baltimore County Zoning Regulations (BCZR); and (2) has a relationship to the property as the owner, occupant, landlord or tenant.

The County is allowed and may seek, remedy via instant Administrative Hearing, file, and pursue charges in the District Court of Maryland and the Circuit Court of Maryland. The cases may be conducted separate or simultaneously. The fact that a Motion for Temporary Restraining Order has been filed in the Circuit Court of Maryland does not estop this hearing from taking place. The County may pursue multiple remedies.

Mr. Jablon objected to the hearing based upon the fact that a correction notice was not issued prior to the citation pursuant to Baltimore County Code. *In most cases, I would likely agree on this* point, however in this case we have an order to cease and desist immediately the painting and repair of automobiles via the Finding of Fact and Conclusion of Law issued by the then Deputy Zoning Commissioner. In my minds eye, the Order clearly states what thou shall not do and the manner of correction required therefore the order carries equal or more weight than a correction notice. Baltimore County Code § 32-3-602 in part states a person is subject to the civil penalty…if the use of property by a person is alleged to be in violation of: (1) The Baltimore County Zoning Regulations, policies, rules or regulations interpreting the zoning regulations; or (2) Orders of the Zoning Commissioner or Board of Appeals. Baltimore County Zoning Regulations § 500.6 in part states the Zoning Commissioner has the power to conduct hearings regarding non-compliance with any zoning regulations or the proper interpretation thereof, and shall pass his Order thereon…it is my finding a correction notice in instant case is unnecessary, that the Order of the Deputy Zoning Commissioner in fact superceded the requirement to issue a correction notice.

The rules of evidence or perceived failure to follow the rules of evidence became an issue for the defense. This Hearing Officer may use the rules of evidence as a guide; however is not technically bound by the rules of evidence. Evidence such as testimony and pictures taken before the charging document dates were allowed as background information.

Robert L. Williams, 10901 Falls Road testified to living next door to subject property since 1982. Mr. Williams originally rented the 10901 property until 1997 when he purchased the property. Mr. Williams stated that "hardly any activity" took place at 10905 Falls Road from 1982 up to 2001. In 2001, the Longs rented the property to Mr. Galasso. Mr. Williams stated that soon thereafter, cars began to arrive at the property parking in the driveway and tow trucks delivering cars three or four times per day. Tow trucks would "bottle up traffic" as traffic would have to be stopped to allow the tow trucks to enter the premises backing in to unload according to Mr. Williams. Mr. Williams stated that private vehicles, passenger vehicles were dropped off three or four times per day from March 10, 2004 through August 2004 during normal 7-4 work hours. Additional cars were dropped off after hours and that hours of operation would typically begin at 6:30 a.m. and many times extend to 11 or 12 at night. Mr. Williams said that paint fumes could be detected everyday and traffic accidents occurred regularly at or near the entrance of the subject premises. Mr. Williams stated that he could see the cars being worked on, as the doors were open on many occasions. Mr. Williams stated that he saw passenger cars delivered on a daily basis and several days thereafter would see cars leave the premises " fixed."

Lesley Tunney formerly of 10927 Falls Road stated she lived nearby for eight years. She testified that all was well from 1996 when they built at 10927 Fall Road until the year 2001. She stated many cars began to appear. The cars she saw were usually damaged and work on cars intensified. Ms. Tunney stated a fence was erected soon thereafter however she could see "cars and junk" from her upstairs windows. She stated that she could see the addition of ventilation shafts and smelled fumes.

Ms. Gill Shelhosse has lived nearby for 15 years. Ms. Shelhosse took photographs marked County Exhibit 27A, 27B and 27C showing parking issues, delivery truck and congestion of the exit and entrance. Ms. Shelhosse stated that the intensification of car repair work has been tremendous.

Mr. Paul Miller of 11203 Falls Road and member of the Board of Directors of the Falls Road Community Association testified to "lots of cars in the driveway and front yard of the subject property". He stated that at some point the front yard was black topped. Mr. Miller stated that at some point sod was placed over the blacktopped former front yard. Mr. Miller stated the property experiences continued operations and is clearly a repair shop for regular passenger cars.

Mr. Miller stated the operation regularly blocks traffic and sent email messages to Permits and Development Management Director, Timothy Kotroco complaining of the blocking of traffic. Mr. Miller said that the business advertises in local papers as Lutherville Collision and Truck Center with expert technicians specializing in Foreign and Domestic Vehicle Repair.

The hearing was continued to October 22, 2004 at 9:00 a.m. John H. Zink, Esquire, co-counsel for Mr. Galasso objected to the imposition of a civil penalty. Again I refer to Baltimore County Code § 32-3-602 clearly states when a person is subject to a civil penalty and in this case failure to comply with the Deputy Zoning Commissioner's Order and amended Order thereto is justification for the imposition of a civil penalty in the matter if the person is found to be in violation of the Order and/or in violation of Baltimore County Zoning Regulations, policies, rules or regulations interpreting the Zoning Regulations or Orders of the Zoning Commissioner or Board of Appeals; furthermore § 32-3-602(b) requires the Department of Permits and Development Management and its representatives shall enforce the Baltimore County Zoning Regulations policies, rules or regulations interpreting the regulations. Baltimore County Code § 32-3-602(c) sets the penalty. It certainly appears to follow a natural progression to the instant Administrative Hearing and possible imposition of a civil penalty.

Baltimore County Code § 32-3-603 requires a citation to a person alleged to be in violation of the Baltimore County Zoning Regulation, and among other requirements, information on the form or citation of the defendants right to stand trial for the civil zoning violations and instructions for making the election. On the reverse side of the citation, as well as the face, instructions are set forth for the pending quasi-judicial hearing. The Administrative Hearing process was conceived to relieve the overburdened District Court system of cases civil in nature and specifically Code Enforcement issues. It was acknowledged that certain cases would require adjudication by the District Court however, only a small percentage of the case load would proceed to that point. In this case, the plaintiffs have been provided with a clear explanation of the property use violation. Baltimore County has in place a "quasi-judicial" hearing procedure at which, with or without the assistance of counsel, require the County to shoulder the burden of proof and the establishment of the truth of the allegations. During this hearing the alleged violator has the right to present witnesses, introduce evidence and cross-examine adverse witnesses.

This "quasi-judicial" hearing process also allows the alleged violator the right to judicial review of this administrative action. United States V. Ward, 448 U.S. 242(1980) establishes that the Supreme Court has long recognized the role of civil penalties as sanctions intended to protect the health and welfare of a community. I find that the expectation of some higher form or level of due process, i.e., District Court jurisdiction in lieu of instant Administrative Hearing without merit and therefore rejected.

Mr. Galasso stated his home address as 8509 Thornton Road. Mr. Galasso stated that the business was a service garage for the repair of specialty vehicles, trucks, cranes and horse trailers. He stated that Lutherville Collision and Truck Center was a trade name only. That the owner of the business was Automotive Emporium Inc. Mr. Galasso stated that he believed the Longs operated an auto repair business and so he thought he would be able to operate from that location as well. Mr. Galasso stated that at the time the appeal to Mr. Kotroco's Order was withdrawn, he was servicing regular automobiles.

Subsequent to the motion to withdraw the appeal, Mr. Galasso contacted a plethora of Real Estate brokers trying to locate a property with proper zoning. He eventually settled on a property in Hereford, however extensive repairs were necessary and occupancy is not expected for 8 to 10 weeks. In the meantime, Mr. Galasso stated that 50 to 60% of the passenger vehicles were moved to Ellen Road in Randallstown. Mr. Galasso stated that customers are used to bringing vehicles to the Falls Road location. He then transports the cars to Ellen Road in effect using the Falls Road location as a distribution center. He stated the Falls Road location was open Monday through Friday, however actual repair to passenger cars take place only two days per week. He also stated that all repairs are done inside the building. Mr. Galasso stated that compliance with the Order would mean shutting down the business. Testimony also brought out the fact that separate cases were filed in Circuit Court to shut the business down. An injunction filed on March 15, 2004 was denied by Judge Byrnes as the court found no evidence of irreparable harm to the community. The County requested a temporary Restraining Order; which Judge Kahl denied.

Testimony also showed the contentious relationship between Mr. Galasso and Mr. Robert Williams.

Upon cross, Mr. Galasso admitted that Lutherville Collision and Truck Center was not registered as a trade name for Automotive Emporium Inc.

Mr. Galasso acknowledged the sign showing Lutherville Collision and Truck Center with Body Shop Office in rear with arrow as shown in several County Exhibits were actually in place at one time, however are now removed. Mr. Galasso stated he was "clearly convinced that the property was grandfathered as a service garage". He stated that Baltimore County forced a petition for Special Hearing. Mr. Galasso acknowledged that "cease and desist" immediately meant to stop. However, he continued to operate after the March 10, 2004, withdraw of the appeal. Mr. Galasso stated that since September 2004, he has given up certain contracts and has only done work as per the Order. From March 10, 2004 through August 2004, Mr. Galasso maintains he has reduced business by 40% and has downsized continually since withdrawing this appeal.

I find Steve Galasso to be properly identified as a defendant in instant case as it has been established through testimony and exhibits entered into evidence that Mr. Galasso, trading as Lutherville Collision and Truck Center enjoys a continuing relationship to the property as occupant and tenant meeting criteria set forth in Baltimore County Code § 32-3-601(1)(2). The Code Enforcement file contains more than several references to Steve Galasso as owner of Lutherville Collision and Truck Center. Letters from Steve Galasso to Falls Road Community Association and to the Honorable Bryan McIntire each are signed by Steven Galasso and are on letterhead touting Lutherville Collision and Truck Center, 10905 Falls Road. In addition, Mr. Galasso requested a petition for Special Hearing as Steven Galasso, owner of Lutherville Collision and Truck Center. Mr. Galasso may now wish to hide behind the name of Automotive Emporium Inc., but alas is too late in declaring foul in this regard, however has now at his convenience supplied the name of the true entity for additional enforcement action almost certain to unfold on short order.

The original code enforcement officer investigating this case from the date of initial complaint was not available for this hearing due to a serious medical condition. However, upon review of Respondent's Exhibit #5, the Code Enforcement Case file #02-0020C, a correction notice was in fact issued by Mr. Leonard Wasilewski on January 9, 2002.

The notice was issued to William Long, declaring the occupant, Lutherville Collision and Truck Center, care of Steve Galasso to be in violation of the Baltimore County Zoning Regulations and given orders to cease the operation of a service garage without a hearing for a non-conforming use...therefore even though I believe instant case has merit without a violation notice, a violation notice was issued therefore Article 3, Title of the Baltimore County Code does apply.

The correction notice of January 9, 2002 and the citation cite zoning regulations violated, most specifically 1A04.1 wherein uses permitted as a matter of right and by special exception do not contain service garage use as a possible use under either column. Therefore, if the use is not listed then that use is not allowed. Service garage uses are not allowed in RC5 zones. Mr. Jablon argues that specific authorization is absent from the code enforcement regulations to enforce Zoning Commissioner's Order therefore not enforceable by the Code Enforcement Officer. However, cites the lack of prohibitive language pursuant to service garage use in the RC 5 zone regulations to somehow suggest that service garage activities are not specifically prohibited is inconsistent with policies in a previous life. In 1997, the Baltimore County Council passed a Code Enforcement Law to establish a procedure for the enforcement of...(the) Livability Code, or any regulation or standard administered by the Department of Permits and Development Management. The procedure provides for an Administrative Hearing.

Mr. Galasso was the only witness to describe some type of downsizing or less intense car repair activity for the site. Testimony by Mr. Miller and others does not corroborate Mr. Galasso's statements regarding downsizing.

I find the Respondent to be in violation of Baltimore County Zoning Regulations § 1A04 and specifically 1A04.2.A and B. for the continued operation of a service garage in a RC 5 zone. The Respondent is also in violation of Baltimore County Zoning Regulations § 102.1 wherein subject premises or land shall not be used except in conformity with the zoning regulations.

I find the Respondent in violation of failing to comply with the Deputy Zoning Commissioner's Order of November 7, 2002 and amended Order of January 7, 2003.

I find the cited parking issue a condition of the illegal use and therefore is included in the violation finding pursuant to Baltimore County Zoning Regulations § 1A04 and not cause for a separate offense as it occurs in the furtherance of the illegal service garage activity therefore inclusive.

In as much as a correction notice was issued in the matter, possible additional penalty dates may now be appropriate. However, I will assess a penalty for the time and dates of the citation or March 10, 2004 through August 28, 2004 excluding weekends as it has been determined by evidence and testimony presented, show the delivery and repair of ordinary passenger motor vehicles was in fact taking place at 10905-10911 Falls Road during the dates cited and is continuing. The Respondent shall be assessed for 126 days of continuing violations excluding weekends.

It should be noted that testimony established service garage activities on weekends as well as during the week however the Hearing Officer has determined by reasonable presumption that service garage activities did not take place every weekend or even most weekends.

The Respondent is in violation of Baltimore County Zoning Regulations and the Deputy Zoning Commissioner's Order however the violation is singular in nature meaning the continued illegal use of the premises constitutes a violation with possible civil penalty of $200.00 per day. Multiple sections have been applied but all relate to the same violation, the use of the property.

IT IS ORDERED by the Code Enforcement Hearing Officer for the Respondent to cease and desist immediately all service garage activities, as it relates to the service and repair of automobiles, and any ancillary or accessory uses thereto.

IT IS ORDERED by the Code Enforcement Hearing Officer, this 3rd day of November 2004, that a civil penalty be imposed in the amount of $25,200.00 (twenty five thousand two hundred dollars). The civil penalty shall be paid within 30 days of this Order.

IT IS FURTHER ORDERED that the inspector inspect the property to determine whether the violation has been corrected. The Respondent is subject to additional citations and civil penalties for continuing violations of the Baltimore County Zoning Regulations. The inspector may request the Office of Law to file a petition of Code Enforcement in the District Court of Maryland.

Signed: Raymond S. Wisnom, Jr.
Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

The violator is advised that pursuant to §1-7(g)(1), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §1-7(g)(2) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

RSW/jaf

Baltimore County, Maryland
Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

In the Matter of

William E Long
10911 Falls Road
Lutherville, MD 21093

Respondent

Civil Citation No.02-0020D

10905-10911 Falls Road

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on October 22, 2004, for a hearing on a citation for violations under the Baltimore County Zoning Regulations § 1A04.1, 102.1, 500.7, 500.6 amended to include Baltimore County Code § 32-3-602(a)(2) for non-compliance with the Zoning Order dated November 7, 2002 and amended January 7, 2003, Case #02-419 SPH and working on vehicles that are not antique and/or classic, trucks or specialty vehicles such as fire equipment on residential property zoned RC 5 located at 10905-10911 Falls Road.

On July 6, 2004, pursuant to §3-6-205, Baltimore County Code, a code enforcement citation was issued. The citation was legally served on the Respondents.

The citation proposed a civil penalty of $67,600.00 (sixty seven thousand six hundred dollars) to be assessed. A code enforcement hearing date was scheduled for October 22, 2004.

The Respondent failed to request a code enforcement hearing and/or failed to appear after requesting a hearing. Baltimore County Code, § 3-6-205(d) provides that in case of failure to request a code enforcement hearing or if the violator (Respondent) fails to appear after requesting a hearing then the citation and the civil penalty, shall be the Final Order of the Code Official not subject to appeal.

October 28, 2004

(42)

Testimony and evidence presented shows the property to be in violation of the Order of the Deputy Zoning Commissioner for Case #02-419 SPH. The Respondent has allowed the use of the property to be significantly changed beyond the scope of the non-conforming use as established previously by the Long family. The Deputy Zoning Commissioner's Order clearly ordered that the painting and repair of automobiles must cease immediately. The amended order states in more precise terms that the repair and painting of the average passenger vehicle cannot be done by anyone on the property. Testimony and evidence clearly shows that the repair and painting of ordinary, regular and average passenger cars are in fact being performed on the subject property and are continuing in defiance and direct contravention of the Order to cease and desist immediately by the Deputy Zoning Commissioner on the 7th day of November 2002 and reaffirmed in the amended Order on the 7th day of January 2003.

IT IS FURTHER ORDERED that the inspector inspect the property to determine whether the violations have been corrected. If the violation continues to exist the inspector shall issue additional citation for dates not covered by instant citation or from August 26, 2004 up to and including the date of next scheduled hearing.

The Respondent shall pay the civil penalty within 30 days of the date of this Order. If the civil penalty is not paid, the amount of the civil penalty shall be placed as a lien upon the real property to be paid in the same manner as taxes.

IT IS ORDERED by the Code Enforcement Hearing Officer, this 28th day of October 2004, that a civil penalty be imposed in the amount of $33,800.00 (thirty three thousand eight hundred dollars).

Signed: Raymond S. Wisnom, Jr.
Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

RSW/jaf

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COUNTY EXHIBIT 10

Orders

2nd Code Enforcement

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

Exhibit 10

In the Matter of

Civil Citation No.05-0457A

William E. Long
10911 Falls Road
Lutherville, MD 21093

10905 through 10911 Falls Road

Respondent

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on April 29, 2005, for a hearing on a citation for violations under the Baltimore County Zoning Regulations § 1A04.1, 1A04.2A.B, 102.1, 409.8.A.2; 500.6, 500.7; Zoning Commissioner's Policy Manual § 500.9; Baltimore County Code § 32-3-102, 3-6-401, 3-6-402 for failure to comply with Deputy Zoning Commissioner's Order dated January 7, 2003, SPH 02-419, and failure to comply with Hearing Officer's Order dated November 3, 2004, failure to cease repair and painting of vehicles restricted by Deputy Zoning Commissioner, failure to cease parking on a non-approved area without durable and dustless surface on residential property zoned RC 5 located at 10905-11 Falls Road, 21093.

On January 25, 2005, pursuant to §3-6-205, Baltimore County Code, a code enforcement citation was issued by Leonard Wasilewski, Code Enforcement Officer. The citation was legally served on the Respondent.

The citation proposed a civil penalty of $86,400.00 (eighty six thousand four hundred dollars) to be assessed. A Code Enforcement Hearing date was scheduled for April 29,2005.

William E. Long, Respondent appeared for the hearing and testified.
Len Wasilewski, Code Enforcement Officer also testified.

April 4, 2005

Testimony and evidence shows that the property continues to be in violation of the Deputy Zoning Commissioner's Order rendered in Case #02-419-SPH. Mr. William E. Long testified during this recorded proceeding to continuing to repair and paint ordinary passenger vehicles as a condition of continuing to be a viable enterprise. He went on to say that the painting and modification of specialty vehicles such as ambulances, fire trucks, military vehicles, tractor cabs, classic and antique vehicles has diminished to a point that the business cannot be sustained without resorting to performing repairs and painting of ordinary passenger vehicles and light trucks. Mr. Long stated that today's fire engines and over the road tractors cannot fit in his building as the size of such apparatus has increased. Mr. Long stated that he was the owner of Valley Services, Inc. and that it was a sole proprietorship held company.

Mr. Long stated that he is greatly disturbed by the actions of the County and cannot understand why he is not allowed to continue business as usual. Mr. Long stated there are no provisions for the evolution of business taken into consideration when decisions are made regarding the use of the property.

Mr. Long testified that he worked with Mr. Galasso on several vehicles. Each vehicle he worked on was described as a specialty vehicle with problems he was able to repair. Mr. Long did not testify to working on ordinary vehicles. However, he did acknowledge that ordinary passenger vehicles are worked on as stated earlier because the business cannot survive unless ordinary passenger vehicle repair business takes place.

Mr. Wasilewski entered exhibits into evidence and testified to seeing multiple ordinary passenger vehicles in various states of repair on the premises. He also has seen and submitted photographs of cars parked on an area that was once grass, then macadam and returned to grass via placing sod over the macadam. Of course the sod has deteriorated to mud over macadam.

The fact remains a Special Hearing was held and the then Deputy Zoning Commissioner did not grant approval for the repair and painting of ordinary passenger vehicles.

There was no appeal to the Order taken as a request to appeal the decision was withdrawn. Therefore the conditions of operation stand and cannot be changed or altered by this Hearing Officer. Mr. Long as the owner of the property will be subject to citation after citation and ever increasing civil penalties so long as he allows his tenant to continue to violate the Order of the Deputy Zoning Commissioner.

I find the Respondent to be in violation of the Order by Mr. Kotroco and in violation of parking cars in an area that has not been approved by Zoning via an approved amended site plan and the violations are continuing. There is an existing outstanding civil penalty placed as a lien upon the real property. This case and the owners and tenants stubborn defiance of the Deputy Zoning Commissioner's Order will cause an additional substantial civil penalty. The Respondent has been ordered to cease and desist the repair and painting of ordinary passenger vehicles and light trucks and is hereby ordered to cease and desist the repair and painting of ordinary passenger vehicles and light trucks once more.

IT IS ORDERED by the Code Enforcement Hearing Officer, this 4th day of April 2005, that a civil penalty be imposed in the amount of $50.000.00 (fifty thousand dollars)

IT IS FURTHER ORDERED that the inspector inspect the property to determine whether the violation has been corrected. Additional citations shall be issued as required so long as violations continue to exist upon the premises.

Signed: Raymond S. Wisnom, Jr.
Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

The violator is advised that pursuant to §3-6-301(a), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §3-6-302(a)(b)(c)(d) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

RSW/jaf

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

William E. Long
10911 Falls Road
Lutherville, MD 21093

Respondent

Civil Citation No.05-0457A

10905 through 10911 Falls Road

FINDINGS OF FACT AND CONCLUSION OF LAW
AMENDED FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on April 29, 2005, for a hearing on a citation for violations under the Baltimore County Zoning Regulations § 1A04.1, 1A04.2A.B, 102.1, 409.8.A.2; 500.6, 500.7; Zoning Commissioner's Policy Manual § 500.9; Baltimore County Code § 32-3-102, 3-6-401, 3-6-402 for failure to comply with Deputy Zoning Commissioner's Order dated January 7, 2003, SPH 02-419, and failure to comply with Hearing Officer's Order dated November 3, 2004, failure to cease repair and painting of vehicles restricted by Deputy Zoning Commissioner, failure to cease parking on a non-approved area without durable and dustless surface on residential property zoned RC 5 located at 10905-11 Falls Road, 21093.

On January 25, 2005, pursuant to §3-6-205, Baltimore County Code, a code enforcement citation was issued by Leonard Wasilewski, Code Enforcement Officer. The citation was legally served on the Respondent.

The citation proposed a civil penalty of $86,400.00 (eighty six thousand four hundred dollars) to be assessed. A Code Enforcement Hearing date was scheduled for April 29,2005.

William E. Long, Respondent appeared for the hearing and testified.
Len Wasilewski, Code Enforcement Officer also testified.

May 4, 2005

(48)

Testimony and evidence shows that the property continues to be in violation of the Deputy Zoning Commissioner's Order rendered in Case #02-419-SPH. Mr. William E. Long testified during this recorded proceeding to continuing to repair and paint ordinary passenger vehicles as a condition of continuing to be a viable enterprise. He went on to say that the painting and modification of specialty vehicles such as ambulances, fire trucks, military vehicles, tractor cabs, classic and antique vehicles has diminished to a point that the business cannot be sustained without resorting to performing repairs and painting of ordinary passenger vehicles and light trucks. Mr. Long stated that today's fire engines and over the road tractors cannot fit in his building as the size of such apparatus has increased. Mr. Long stated that he was the owner of Valley Services, Inc. and that it was a sole proprietorship held company.

Mr. Long stated that he is greatly disturbed by the actions of the County and cannot understand why he is not allowed to continue business as usual. Mr. Long stated there are no provisions for the evolution of business taken into consideration when decisions are made regarding the use of the property.

Mr. Long testified that he worked with Mr. Galasso on several vehicles. Each vehicle he worked on was described as a specialty vehicle with problems he was able to repair. Mr. Long did not testify to working on ordinary vehicles. However, he did acknowledge that ordinary passenger vehicles are worked on as stated earlier because the business cannot survive unless ordinary passenger vehicle repair business takes place.

Mr. Wasilewski entered exhibits into evidence and testified to seeing multiple ordinary passenger vehicles in various states of repair on the premises. He also has seen and submitted photographs of cars parked on an area that was once grass, then macadam and returned to grass via placing sod over the macadam. Of course the sod has deteriorated to mud over macadam.

The fact remains a Special Hearing was held and the then Deputy Zoning Commissioner did not grant approval for the repair and painting of ordinary passenger vehicles.

There was no appeal to the Order taken as a request to appeal the decision was withdrawn. Therefore the conditions of operation stand and cannot be changed or altered by this Hearing Officer. Mr. Long as the owner of the property will be subject to citation after citation and ever increasing civil penalties so long as he allows his tenant to continue to violate the Order of the Deputy Zoning Commissioner.

I find the Respondent to be in violation of the Order by Mr. Kotroco and in violation of parking cars in an area that has not been approved by Zoning via an approved amended site plan and the violations are continuing. There is an existing outstanding civil penalty placed as a lien upon the real property. This case and the owners and tenants stubborn defiance of the Deputy Zoning Commissioner's Order will cause an additional substantial civil penalty. The Respondent has been ordered to cease and desist the repair and painting of ordinary passenger vehicles and light trucks and is hereby ordered to cease and desist the repair and painting of ordinary passenger vehicles and light trucks once more.

IT IS ORDERED by the Code Enforcement Hearing Officer, this 4th day of May 2005, that a civil penalty be imposed in the amount of $50.000.00 (fifty thousand dollars)

IT IS FURTHER ORDERED that the inspector inspect the property to determine whether the violation has been corrected. Additional citations shall be issued as required so long as violations continue to exist upon the premises.

Signed: Raymond S. Wisnom, Jr.
Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

The violator is advised that pursuant to §3-6-301(a), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §3-6-302(a)(b)(c)(d) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

RSW/jaf

(50)

Baltimore County, Maryland
Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

In the Matter of

Automotive Emporium, Inc.
Joanne Galasso, Resident Agent
8509 Thornton Road
Lutherville, MD 21093

Respondent

Civil Citation No.05-0457C

10905-10911 Falls Road

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on May 20, 2005, for a hearing on a citation for violations under the Baltimore County Zoning Regulations § 1A04.1; 1A04.2 A & B; 102.1; 409.8. A. 2; 500.6; 500.7; Zoning Commissioner's Policy Manual § 500.9; Baltimore County Code § 3-6-401, 402; 302-3-102; for failure to comply with Zoning Order as amended January 7, 2003, Case #02-429SPH; failure to comply with Final Order dated November 3, 2004;failure to cease repair of vehicles restricted by Deputy Zoning Commissioner's Order as amended; failure to cease parking in area not approved as per site plan and failure to provide dustless and durable surface on residential property zoned RC 5 located at 10905-10911 Falls Road, 21093.

On March 2, 2005, pursuant to §3-6-205, Baltimore County Code, a code enforcement citation was issued. The citation was legally served on the Respondent.

The citation proposed a civil penalty of $58,400.00 (fifty eight thousand four hundred dollars) to be assessed. A code enforcement hearing date was scheduled for May 20, 2005.

May 25, 2005

(51)

On May 3, 2005, a letter was delivered to this Hearing Officer from Arnold Jablon, Esquire. This letter stated that neither Mr. Arnold Jablon nor John H. Zink, Esquire, represent Mr. Stephen Galasso of Lutherville Collision and Truck Center, Valley Services Inc., or Automotive Emporium, Inc. The letter went on to state "the above parties have retained new counsel". On May 19, 2005 at 11:24 a.m. Michael Jeter sent via fax, an Order of Judge Diane O. Leasure requiring his appearance in a Howard County matter. This fax was received less than 24 hours before the scheduled Hearing of May 20, 2005 and did not enter Mr. Jeter's appearance nor did it request a postponement, merely provided information of the Howard County matter. If the fax from Mr. Jeter is to be presumed to be an entrance of his appearance in subject matter and at the same time assumed to be a request for a postponement, the request is hereby denied as both were not filed in a timely manner given the fact that Mr. Galasso retained new counsel on May 3, 2005 according to Mr. Jablon. In addition, Mr. Galasso, nor any counsel to Mr. Galasso, Lutherville Collision and Truck Center, Valley Services Inc. or Automotive Emporium, Inc. have requested a Hearing on the matter therefore the following applies:

The Respondent failed to request a code enforcement hearing and/or failed to appear after requesting a hearing. Baltimore County Code, § 3-6-205(d) provides that in case of failure to request a code enforcement hearing or if the violator (Respondent) fails to appear after requesting a hearing then the citation and the civil penalty, shall be the Final Order of the Code Official not subject to appeal.

IT IS ORDERED by the Code Enforcement Hearing Officer, this 25th day of May 2005 that a civil penalty be imposed in the amount of $58,400.00 (fifty eight thousand four hundred dollars).

IT IS FURTHER ORDERED that the inspector inspect the property to determine whether the violations have been corrected.

Signed: _____
Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

RSW/jaf

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Baltimore County, Maryland
Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

In the Matter of

Stephen Galasso, Owner/Occupant/Lessee/T/A
Lutherville Collision and Truck Center
8509 Thornton Road
Lutherville, MD 21093

Respondent

Civil Citation No.05-0457B

10905-10911 Falls Road

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on May 20, 2005, for a hearing on a citation for violations under the Baltimore County Zoning Regulations § 1A04.1; 1A04.2 A & B; 102.1; 409.8. A. 2; 500.6; 500.7; Zoning Commissioner's Policy Manual § 500.9; Baltimore County Code § 3-6-401, 402; 302-3-102; for failure to comply with Zoning Order as amended January 7, 2003, Case #02-429SPH; failure to comply with Final Order dated November 3, 2004;failure to cease repair of vehicles restricted by Deputy Zoning Commissioner's Order as amended; failure to cease parking in area not approved as per site plan and failure to provide dustless and durable surface on residential property zoned RC 5 located at 10905-10911 Falls Road, 21093.

On March 2, 2005, pursuant to §3-6-205, Baltimore County Code, a code enforcement citation was issued. The citation was legally served on the Respondent.

The citation proposed a civil penalty of $58,400.00 (fifty eight thousand four hundred dollars) to be assessed. A code enforcement hearing date was scheduled for May 20, 2005.

May 25, 2005

On May 3, 2005, a letter was delivered to this Hearing Officer from Arnold Jablon, Esquire. This letter stated that neither Mr. Arnold Jablon nor John H. Zink, Esquire, represent Mr. Stephen Galasso of Lutherville Collision and Truck Center, Valley Services Inc., or Automotive Emporium, Inc. The letter went on to state "the above parties have retained new counsel". On May 19, 2005 at 11:24 a.m. Michael Jeter sent via fax, an Order of Judge Diane O. Leasure requiring his appearance in a Howard County matter. This fax was received less than 24 hours before the scheduled Hearing of May 20, 2005 and did not enter Mr. Jeter's appearance nor did it request a postponement, merely provided information of the Howard County matter. If the fax from Mr. Jeter is to be presumed to be an entrance of his appearance in subject matter and at the same time assumed to be a request for a postponement, the request is hereby denied as both were not filed in a timely manner given the fact that Mr. Galasso retained new counsel on May 3, 2005 according to Mr. Jablon. In addition, Mr. Galasso, nor any counsel to Mr. Galasso, Lutherville Collision and Truck Center, Valley Services Inc. or Automotive Emporium, Inc. have requested a Hearing on the matter therefore the following applies:

The Respondent failed to request a code enforcement hearing and/or failed to appear after requesting a hearing. Baltimore County Code, § 3-6-205(d) provides that in case of failure to request a code enforcement hearing or if the violator (Respondent) fails to appear after requesting a hearing then the citation and the civil penalty, shall be the Final Order of the Code Official not subject to appeal.

IT IS ORDERED by the Code Enforcement Hearing Officer, this 25th day of May 2005 that a civil penalty be imposed in the amount of $58,400.00 (fifty eight thousand four hundred dollars).

IT IS FURTHER ORDERED that the inspector inspect the property to determine whether the violations have been corrected.

Signed: Raymond S. Wisnom, Jr.
Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

RSW/jaf

Baltimore County, Maryland
Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

In the Matter of

Valley Services, Inc.
Joanne Galasso, Resident Agent
8509 Thornton Road
Lutherville, MD 21093

Respondent

Civil Citation No.05-0457D

10905-10911 Falls Road

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on May 20, 2005, for a hearing on a citation for violations under the Baltimore County Zoning Regulations § 1A04.1; 1A04.2 A & B; 102.1; 409.8. A. 2; 500.6; 500.7; Zoning Commissioner's Policy Manual § 500.9; Baltimore County Code § 3-6-401, 402; 302-3-102; for failure to comply with Zoning Order as amended January 7, 2003, Case #02-429SPH; failure to comply with Final Order dated November 3, 2004;failure to cease repair of vehicles restricted by Deputy Zoning Commissioner's Order as amended; failure to cease parking in area not approved as per site plan and failure to provide dustless and durable surface on residential property zoned RC 5 located at 10905-10911 Falls Road, 21093.

On March 2, 2005, pursuant to §3-6-205, Baltimore County Code, a code enforcement citation was issued. The citation was legally served on the Respondent.

The citation proposed a civil penalty of $58,400.00 (fifty eight thousand four hundred dollars) to be assessed. A code enforcement hearing date was scheduled for May 20, 2005.

May 25, 2005

On May 3, 2005, a letter was delivered to this Hearing Officer from Arnold Jablon, Esquire. This letter stated that neither Mr. Arnold Jablon nor John H. Zink, Esquire, represent Mr. Stephen Galasso of Lutherville Collision and Truck Center, Valley Services Inc., or Automotive Emporium, Inc. The letter went on to state "the above parties have retained new counsel". On May 19, 2005 at 11:24 a.m. Michael Jeter sent via fax, an Order of Judge Diane O. Leasure requiring his appearance in a Howard County matter. This fax was received less than 24 hours before the scheduled Hearing of May 20, 2005 and did not enter Mr. Jeter's appearance nor did it request a postponement, merely provided information of the Howard County matter. If the fax from Mr. Jeter is to be presumed to be an entrance of his appearance in subject matter and at the same time assumed to be a request for a postponement, the request is hereby denied as both were not filed in a timely manner given the fact that Mr. Galasso retained new counsel on May 3, 2005 according to Mr. Jablon. In addition, Mr. Galasso, nor any counsel to Mr. Galasso, Lutherville Collision and Truck Center, Valley Services Inc. or Automotive Emporium, Inc. have requested a Hearing on the matter therefore the following applies:

The Respondent failed to request a code enforcement hearing and/or failed to appear after requesting a hearing. Baltimore County Code, § 3-6-205(d) provides that in case of failure to request a code enforcement hearing or if the violator (Respondent) fails to appear after requesting a hearing then the citation and the civil penalty, shall be the Final Order of the Code Official not subject to appeal.

IT IS ORDERED by the Code Enforcement Hearing Officer, this 25th day of May 2005 that a civil penalty be imposed in the amount of $58,400.00 (fifty eight thousand four hundred dollars).

IT IS FURTHER ORDERED that the inspector inspect the property to determine whether the violations have been corrected.

Signed: _____
Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

RSW/jaf

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COUNTY EXHIBIT 11

Orders

3rd Code Enforcement

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

Exhibit 11

In the Matter of

Civil Citation No.05-8457 D

Valley Services, Inc.
R/A Joanne Galasso
8509 Thornton Road
Lutherville-Timonium 21093

10905-11 Falls Road

Respondent

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on December 9, 2005, for a hearing on a citation for violations under the Baltimore County Zoning Regulations § 1A04.1; 1A04.2.2.A.B; 102.1; 409.8.A.2; 500.6; Zoning Commissioner's Policy Manual § 500.9; Baltimore County Code § 3-6-401; 3-6-402; 32-3-102; 32-3-602(A)(2); for non-compliance with Zoning Commissioner's Order dated November 7, 2002 as amended on January 7, 2003, Case #02-419 SPH; Non-compliance with Hearing Officer's Order dated November 3, 2004 and May 25, 2005; working on vehicles restricted by Order November 7, 2002 as amended on January 7, 2003; commercial parking in unapproved areas on residential property zoned RC 5 located at 10905-11 Falls Road, 21093

On September 6, 2005, pursuant to §3-6-205, Baltimore County Code, a code enforcement citation was issued by Len Wasilewski, Code Enforcement Officer. The citation was legally served on the Respondent.

The citation proposed a civil penalty of $64; 400.00 (sixty four thousand four hundred dollars) to be assessed. A code enforcement hearing date was scheduled for November 2, 2005 rescheduled to December 9, 2005 by request of Respondents Counsel.

Testimony of Steven Galasso that Valley Services Inc. operates the Hereford Site was uncontested. No evidence was entered that shows Valley Services Inc. connected to the Falls Road site. Signs on site display the name of Valley Services Company.

December 14, 2005

IT IS ORDERED by the Code Enforcement Hearing Officer, this 14th day of December 2005, that citation # 05-8457D is hereby dismissed.

Signed: Raymond S. Wisnom, Jr.
Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

The violator is advised that pursuant to §3-6-301(a), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §3-6-302(a)(b)(c)(d) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

RSW/jaf

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Lutherville Collision and Truck Center
Steven Galasso, Owner/Occupant/Lessee

Respondent

Civil Citation No.05-8457B

10905-11 Falls Road

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on December 9, 2005, for a hearing on a citation for violations under the Baltimore County Zoning Regulations § 1A04.1; 1A04.2.2.A.B; 102.1; 409.8.A.2; 500.6; Zoning Commissioner's Policy Manual § 500.9; Baltimore County Code § 3-6-401; 3-6-402; 32-3-102; 32-3-602(A)(2); for non-compliance with Zoning Commissioner's Order dated November 7, 2002 as amended on January 7, 2003, Case #02-419 SPH; Non-compliance with Hearing Officer's Order dated November 3, 2004 and May 25, 2005; working on vehicles restricted by Order November 7, 2002 as amended on January 7, 2003; commercial parking in unapproved areas on residential property zoned RC 5 located at 10905-11 Falls Road, 21093

On September 6, 2005, pursuant to §3-6-205, Baltimore County Code, a code enforcement citation was issued by Len Wasilewski, Code Enforcement Officer. The citation was legally served on the Respondent.

The citation proposed a civil penalty of $64, 400.00 (sixty four thousand four hundred dollars) to be assessed. A code enforcement hearing date was scheduled for November 2, 2005 rescheduled to December 9, 2005 by request of Respondents Counsel.

Steven Galasso, Respondent appeared for the hearing and testified.

December 14, 2005

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There was no evidence or testimony submitted to show Lutherville Collision Truck Center operating from subject site.

IT IS ORDERED by the Code Enforcement Hearing Officer, this 14th day of December 2005, that Case #05-8457B is hereby dismissed.

Signed: _____
Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

The violator is advised that pursuant to §3-6-301(a), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §3-6-302(a)(b)(c)(d) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

RSW/jaf

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Automotive Emporium Inc
Joanne Galasso-Resident Agent
8509 Thornton Road
Lutherville, MD 21093

Respondent

Civil Citation No.05-8457C

10905-11 Falls Road

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on December 9, 2005, for a hearing on a citation for violations under the Baltimore County Zoning Regulations § 1A04.1; 1A04.2.2.A.B; 102.1; 409.8.A.2; 500.6; Zoning Commissioner's Policy Manual § 500.9; Baltimore County Code § 3-6-401; 3-6-402; 32-3-102; 32-3-602(A)(2); for non-compliance with Zoning Commissioner's Order dated November 7, 2002 as amended on January 7, 2003, Case #02-419 SPH; Non-compliance with Hearing Officer's Order dated November 3, 2004 and May 25, 2005; working on vehicles restricted by Order November 7, 2002 as amended on January 7, 2003; commercial parking in unapproved areas on residential property zoned RC 5 located at 10905-11 Falls Road, 21093

On September 6, 2005, pursuant to §3-6-205, Baltimore County Code, a code enforcement citation was issued by Len Wasilewski, Code Enforcement Officer. The citation was legally served on the Respondent.

The citation proposed a civil penalty of $64, 400.00 (sixty four thousand four hundred dollars) to be assessed. A code enforcement hearing date was scheduled for November 2, 2005 rescheduled to December 9, 2005 by request of Respondents Counsel.

James E. Garland, Esquire appeared as Counsel for Steven Galasso and Automotive Emporium, Inc.

James J. Nolan, Esquire represented Baltimore County

December 14, 2005

(9a)

Mr. Steven Galasso appeared in the matter and served to defend Automotive Emporium Inc., Valley Services Inc., and Lutherville Collision and Truck Center until the arrival of James Garland, Esquire. Case file records show that Mr. Galasso testified on December 6, 2004 that "I have nothing to do with the corporation and I am paid under Valley Services, Inc. and, which operates the Hereford location". According to a memo to the file and court recording December 6, 2004, Mr. Galasso had resigned as an Officer and Director of Automotive Emporium, Inc. in 2003.

The heart of the matter is whether it can be determined if automotive repairs and painting of the average automobile is continuing unabated in contravention of the Deputy Zoning Commissioner's Order as amended on January 7, 2003. Code Enforcement Officer Len Wasilewski testified to viewing passenger vehicles inside the screened fenced area on July 12, 2005. One vehicle appeared to be recently painted and missing body parts according to Mr. Wasilewski. Mr. Wasilewski was asked if he was aware of a consent judgment from the Circuit Court of Maryland. He answered in the affirmative County Exhibit #13 is the Consent Judgment ordering Automotive Emporium, Inc. t/a Valley Services Company or t/a Lutherville Collision and Truck Center be and hereby enjoined from engaging in any of the following activities at 10905 or 10911 Falls Road....: 1) operating a service garage or body shop for repair of passenger vehicles; 2) repairing, painting, or performing mechanical work or passenger vehicles; and 3) using 10905 or 10911 Falls Road as a drop off or transfer point for passenger vehicles to be repaired or painted elsewhere, and it is further ordered that Automotive Emporium, Inc. erect a sign at or near the driveway of 10905 Falls Road informing customers that they may not leave their vehicles at that location.....

Mr. Wasilewski testified that on August 12, 2005 he asked a police to accompany him to the Falls Road location for an inspection. This request was due to an earlier incident where Mr. Galasso became violent when Officer Waslewski tried to make an inspection on April 28, 2005. Mr. Galasso slammed Mr. Wasilewski's car door in violent fashion and was verbally abusive according to Mr. Wasilewski. Clearly, Mr. Galasso intimidates Mr. Wasilewski. Mr. Wasilewski testified to seeing five (5) passenger vehicles inside the screened in yard. Mr. Galasso would not allow the inspector to go in the screened-in-lot.

Mr. Wasilewski inspected the property on September 21, 2005. He took a photograph through the screened fence showing a passenger vehicle in need of repair. A tow truck is also in the photograph. This tow truck appeared to require body repairs as well, see County Exhibit #9.

Mr. Wasilewski testified to taking six (6) photographs on October 14, 2005 and noted a black and gray Honda needing repair on the premises. In Mr. Wasilewski's opinion, it appears the property is used for the storage of regular passenger vehicles in need of repair and that service garage activities continue to occur in violation of the Zoning Commissioner's Order and in contravention of the Consent Judgment.

On December 1, 2005, Mr. Wasilewski re-inspected the property due to the pending Hearing. Mr. Wasilewski stated that he saw two passenger vehicles needing bodywork inside the fenced area. A black and gray Honda Civic, and a white Lexus missing the rear bumper, owned by Loving Care Services, Inc. Mr. Wasilewski stated that the customer vehicle drop off sign, as required by the Circuit Court Consent Order, is now on site but not displayed in a location easily seen by the public. A photograph of this sign is contained in Exhibit #9, last page. This sign says, "PASSENGER VEHICLE DROP-OFFS, PLEASE CALL 443-271-9114". This sign, in the opinion of this Hearing Officer, does not convey the message that it is prohibited to drop off passenger vehicles at this location. In fact, it appears to invite the drop off of passenger vehicles at this location.

Mr. Wasilewski was cross-examined by Mr. Galasso. It was established during this cross-examination that Mr. Wasilewski considered the property to be in violation of Baltimore County Zoning Regulations § 102.1 wherein it states that: "No land shall be used or occupied and no building or structure shall be erected, altered, located or used except in conformity with these regulations and this shall include any extension of a lawful non-conforming use. It was agreed upon to dismiss Baltimore County Zoning Regulations § 409.8.A.2 referring to parking lot design standards and Baltimore County Zoning Regulations § 500.7 requiring a non-conforming use hearing as a non-conforming use hearing was held on the matter. It was also agreed upon to dismiss Zoning Commissioner's Policy Manual § 500.9 requiring the submission of a site plan as site plans have been submitted in the matter.

County Exhibit #10 is titled William's Logs. The logs speak volumes and describe vehicles dropped off for repair, in the shop, and placed outside for customer pick up of the finished product. Mr. Robert Williams lives next door to the shop and has experienced several confrontations with Mr. Galasso. Mr. Williams testified to a recent altercation where upon finding Mr. Galasso and one of the employees of the service garage on what Mr. Williams considered his property. When he asked Mr. Galasso to leave, Mr. Williams said that Mr. Galasso shouted at him "Fuck the County, look who is winning, you and the County can't stop me. I am still doing what I want on the property". A more encompassing account is found in County Exhibit #12. On direct, Mr. Williams stated that Mr. Galasso was on site at some time on most days. Mr. Williams testified that he works a normal 5-day workweek. The activities he has observed at this site, in most cases take place before he leaves for work or when he returns from work.

County Exhibit #12 is a compilation of photographs taken by Mr. Williams. Mr. Galasso pressed Mr. Williams on nearly every photograph of cars on location, questioning year of car, whether car was handicapped equipped, etc. alluding to the fact that antique vehicles, specialty vehicles and classic vehicles may be repaired on location that any or all of the vehicles shown in County Exhibit #11 may fit one of the allowed categories.

It is noted that Mr. Williams was issued a subpoena to appear as a County witness and was extensively cross-examined by Mr. Galasso. Mr. Williams was not subpoenaed to appear as a witness by the Respondent. Mr. Williams was excused prior to the Respondent's defense.

Mr. Paul G. Miller, President of the Falls Road Community Association, testified to observing ordinary passenger vehicles parked at the body shop. Mr. Miller stated he drives by at least four times a day and as many as six times a day. He lives just north of the body shop and works just to the south of the body shop. He stated that he is retired from Commercial Credit, however he goes to the office everyday. The majority of the vehicles he has observed on this property have been ordinary passenger vehicles and what he termed to be a Jerrdan truck; which would appear to be a roll back vehicle used for hauling other vehicles. Mr. Miller stated that on only one occasion did he see a vehicle on the Jerrdan roll back truck. Mr. Miller stated that he has seen various people, which he assumed to be customers talking to employees at the site.

The property known as 10905 through 10911 Falls Road enjoyed an existing non-conforming use granted by Deputy Zoning Commissioner Timothy Kotroco. Non-conforming uses are permitted to continue indefinitely provided they are not changed to other non-conforming uses and are not extended or enlarged. The first problem with this case is one of a Zoning Commissioner decision to grant a non-conforming use for the property when it appears clear that the use of the property at time of the hearing was changed over time with services added subsequent to the time the Zoning Regulations were instituted. In an effort to preserve for the Long family permission to operate from the site as it has for the past 150 (one hundred and fifty) years, the Deputy Zoning Commissioner granted a special privilege to the Longs that has led to a complication and distortion of Zoning on the property. This non-conforming use was granted even though the use of the property at the time of the non-conforming use hearing was substantially different from the use at the time the zoning law was adopted. The County has a burden to show the present use is not permitted under the Zoning ordinance or regulation. This has been accomplished by citing Baltimore County Zoning Regulations § 1A04.1., 1A04.2 and 102.1. The property owner, tenant, person or entity in control of the land has the burden to show the present use is permitted and that the present use is the same as it was when it became non-conforming.

Mr. Galasso stated that the property is being used in total compliance with the Zoning Commissioner's Order and the Consent Judgment Order. Automotive Emporium Inc. has a burden to show that in fact the property is in compliance. Refusing access to Code Enforcement Officials to inspect the property creates a doubt as to the claim of compliance. Camara v. Municipal Court of San Francisco and See v. City of Seattle, taken together leave no doubt that entry on, and inspection of private residences or premises, be they homes or non-public parts of commercial properties – is barred unless the inspector obtains consent for the entry or first obtains an appropriate warrant. This protection does not extend to those portions of a commercial property open to the public. Commercial properties may be inspected during normal working hours if that portion is truly open to the public. The shop area may be off limits to the general public for safety reasons however, there appears to be no reason to deny an inspection from an opened doorway or garage bay door. The business and shop must submit to yearly fire inspections during reasonable times during normal working hours. Therefore, I see no reason to prohibit the inspector from making an inspection for the purposes of proving compliance with standing orders, unless one has something to hide. Mr. Galasso stated that everyone

is required to park in the screened in area, salesmen, employees, visitors, etc. if so the screened in lot area appears to be a public area and should be accessible to inspectors at reasonable times during normal working hours. Likewise, the shop areas if the public is allowed to enter, the inspector should be allowed to enter during reasonable times, and normal working hours. Automotive Emporium, Incorporated has the burden to prove the property is presently in compliance, refusing inspection can only result in a finding that the property is not in compliance with standing orders.

Mr. Williams and Mr. Wasilewski each testified to violent encounters with Mr. Galasso. Mr. Galasso is noted to be on site almost every day yet when asked the names of the employees at the Falls Road site, his answer was that he did not know the names of two of the employees. I do believe Mr. Galasso stated: "Fuck the County" and that is still doing what he wants to do on the property even though he may or may not be connected to Automotive Emporium Incorporated. He is connected to the property by his ever-present presence and control of the Falls Road site. Mr. Galasso testified that an employee, Debby Jones, kept a log of vehicles repaired at the Falls Road location, marked as Defendant Exhibit #2. The log shows a total of 33 vehicles repaired at the Falls Road location from May 2005 through October 2005. The vehicle repaired during this time period as logged by Ms. Jones are purported to meet the requirement of the non-conforming use. As stated by the Deputy Zoning Commissioner on page six of County Exhibit #2, the non-conforming use comprises the painting and modification of large trucks and specialty vehicles such as ambulances, fire suppression equipment, large government and military vehicles, tractor cabs, and other such similar vehicles.

Mr. Arnold Jablon, previous Counsel to the Respondent testified that he met with The Department of Permits and Development management (PDM) Director, Timothy Kotroco in an effort to resolve the case. He asserted that Mr. Kotroco wanted the service garage to stop operation or at least revert to previous use. Mr. Jablon stated that Mr. Kotroco agreed that if the Respondent submitted Contract of Sale for a properly zoned parcel that he would informally agree to a time to comply. Mr. Jablon did not remember whether the time was to be six months or nine months, and that enforcement action would not take place pending the time necessary for modification of new site and subsequent relocation. This is not unusual as compliance is the goal of the Department. Problem is, notwithstanding this proffer, no attempt at total compliance has ever been detected. I believe everyone agrees that the present use is less intense than before but compliance with standing orders have yet

to be achieved. Approximately two years have passed since this purported discussion, providing ample time for the Respondent to comply therefore mitigate the damages and seek reduction of civil penalties.

The preponderance of the evidence points to the use of the property as a service garage repairing ordinary passenger vehicles among other allowed repairs. That the property continues to be used for the repair of ordinary passenger vehicles in contravention of the Deputy Zoning Commissioner's Order as amended and the Consent Order. Mr. William Long testified at a Hearing on April 29, 2005 before this Hearing Officer wherein he stated that the "painting and modification of specialty vehicles such as ambulances, fire trucks, military vehicles, tractor cabs, classic and antique vehicles has diminished to a point that the business cannot be sustained without resorting to performing repairs and painting of ordinary vehicles and light trucks". I believe that statement was true at the time and I believe the statement applies today. This quote can be found in County Exhibit #5, page 2.

IT IS ORDERED by the Code Enforcement Hearing Officer, this 14th day of December 2005, that a civil penalty be imposed in the amount of $21,400.00 (twenty one thousand four hundred dollars).

IT IS FURTHER ORDERED that the inspector inspect the property to determine whether the violation has been corrected.

Signed: Raymond S. Wisnom, Jr.
Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

The violator is advised that pursuant to §3-6-301(a), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §3-6-302(a)(b)(c)(d) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

RSW/jaf

Baltimore County, Maryland
Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

In the Matter of

Carroll E. Long
1619 Alston Road
Lutherville-Timonium, MD 21093

Respondent

Civil Citation No.05-8457

10905-10911 Falls Road

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on December 9, 2005, for a hearing on a citation for violations under the Baltimore County Zoning Regulations § 1A04.1; 1A04.2.2.A.B; 102.1; 409.8.A.2; 500.6; Zoning Commissioner's Policy Manual § 500.9; Baltimore County Code § 3-6-401; 3-6-402; 32-3-102; 32-3-602(A)(2); for non-compliance with Zoning Commissioner's Order dated November 7, 2002 as amended on January 7, 2003, Case #02-419 SPH; Non-compliance with Hearing Officer's Order dated November 3, 2004 and May 25, 2005; working on vehicles restricted by Order November 7, 2002 as amended on January 7, 2003; commercial parking in unapproved areas on residential property zoned RC 5 located at 10905-11 Falls Road, 21093

On September 6, 2005, pursuant to §3-6-205, Baltimore County Code, a code enforcement citation was issued by Len Wasilewski, Code Enforcement Officer. The citation was legally served on the Respondent.

The citation proposed a civil penalty of $64, 400.00 (sixty four thousand four hundred dollars) to be assessed. A code enforcement hearing date was scheduled for November 2, 2005 rescheduled to December 9, 2005 by request of Respondents Counsel.

The Respondent failed to request a code enforcement hearing and/or failed to appear after requesting a hearing. Baltimore County Code, § 3-6-205(d) provides that in case of failure to request a code enforcement hearing or if the violator (Respondent) fails to appear after requesting a hearing then the citation and the civil penalty, shall be the Final Order of the Code Official not subject to appeal.

December 15, 2005

(69)

The property owner continues to allow a tenant to operate a service garage business wherein ordinary passenger cars are repaired and painted on the property in direct contravention of Zoning Commissioner's Order as ordered on January 7, 2003. The violations are continuing.

IT IS ORDERED by the Code Enforcement Hearing Officer, this 15th day of December that a civil penalty be imposed in the amount of $21,000.00 (twenty one thousand dollars).

IT IS FURTHER ORDERED that the inspector inspect the property to determine whether the violations have been corrected.

Signed: Raymond S. Wisnom, Jr.
Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

RSW/jaf

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

William F. Long
10911 Falls Road
Lutherville-Timonium, MD 21093

Respondent

Civil Citation No.05-8457 A

10905-11 Falls Road

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on December 9, 2005, for a hearing on a citation for violations under the Baltimore County Zoning Regulations § 1A04.1; 1A04.2.2.A.B; 102.1; 409.8.A.2; 500.6; Zoning Commissioner's Policy Manual § 500.9; Baltimore County Code § 3-6-401; 3-6-402; 32-3-102; 32-3-602(A)(2); for non-compliance with Zoning Commissioner's Order dated November 7, 2002 as amended on January 7, 2003, Case #02-419 SPH; Non-compliance with Hearing Officer's Order dated November 3, 2004 and May 25, 2005; working on vehicles restricted by Order November 7, 2002 as amended on January 7, 2003; commercial parking in unapproved areas on residential property zoned RC 5 located at 10905-11 Falls Road, 21093.

On September 6, 2005, pursuant to §3-6-205, Baltimore County Code, a code enforcement citation was issued by Len Wasilewski, Code Enforcement Officer. The citation was legally served on the Respondent.

The citation proposed a civil penalty of $64, 400.00 (sixty four thousand four hundred dollars) to be assessed. A code enforcement hearing date was scheduled for November 2, 2005 rescheduled to December 9, 2005 by request of Respondents Counsel.

William F. Long, Respondent appeared for the hearing and testified.

December 15, 2005

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Mr. William Long did not offer any evidence or testimony that would support a finding that the property was operating in compliance with the findings of Deputy Zoning Commissioner, Timothy Kotroco issued on November 7, 2002 and as amended on January 7, 2003. Instead, Mr. Long tried to explain why the non-conforming use allowed by Mr. Kotroco was too restricting. Any attempts to revisit the non-conforming use conditions must be pursued via a hearing before the Zoning Commissioner. Mr. William Long did acknowledge that he operates as William F. Long doing business as Valley Services Company. County Exhibit #15 shows Automotive Emporium Incorporated using the trade name Valley Services Company.

IT IS ORDERED by the Code Enforcement Hearing Officer, this 15th day of December 2005, that a civil penalty be imposed in the amount of $21,000.00 (twenty one thousand dollars).

IT IS FURTHER ORDERED that the inspector inspect the property to determine whether the violation has been corrected.

Signed: Raymond S. Wisnom, Jr.
Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

The violator is advised that pursuant to §3-6-301(a), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §3-6-302(a)(b)(c)(d) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

RSW/jaf

COUNTY EXHIBIT 12

Orders

4th Code Enforcement

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

Exhibit 12

In the Matter of

Steven Galasso
Joanne Galasso

Respondents

Civil Citation No.05-8457 A & B

10905-10911 Falls Road

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on August 18, 2006, for a hearing on a citation for violations under the Baltimore County Code (BCC) section 32-3-102: Baltimore County Zoning Regulations (BCZR) section 500.9; 1A04; for non compliance with Zoning Order. Failure to cease all repairing and painting of vehicles not approved in Zoning Order of #02-419 SPH on residential property zoned RC 5 known as 10905-10911Falls Road, 21093.

On July 14, 2006, pursuant to §3-6-205, Baltimore County Code, Jerry Chen, Code Enforcement Officer, issued a code enforcement citation. The citation was legally served on the Respondents.

The citation proposed a civil penalty of $24,800.00 (twenty four thousand eight hundred dollars). A code enforcement hearing date was scheduled for August 18, 2006.

Steven Galasso, Respondent appeared representing himself until the arrival of Donna King, Esquire. James J. Nolan, Esquire, represented Baltimore County.

August 28, 2006

The assigned Hearing Officer decided to combine the citations issued to Steven L. Galasso and Joanne Galasso and treat them as one citation as both are listed as owners of the property according to County Exhibits #9 through #18.

Mr. Galasso requested the hearing be forwarded to the District Court of Maryland for adjudication. The motion was denied. See Robert W. Fox and Jane L. Fox v Baltimore County CIV. NO. AMD 02-3074.

There are 6 plus hours of testimony contained on the record. The County's entered exhibits are clearly marked. The Galasso's are charged with violations of the Deputy Zoning Commissioner's Order #02-419 SPH as amended from April 16, 2006 up to and including August 18, 2006. Robert L. Williams, 10901 Falls Road, testified that painting and repair of ordinary passenger vehicles is continuing unabated. Mr. Williams has kept logs and taken photographs of activities of the subject site. County Exhibit, page 75, lists nine instances of passenger cars dropped off or leaving from behind the fenced area from April 18, 2006 through May 7, 2006. Photographs taken by Mr. Williams show continued traffic of ordinary passenger vehicles traveling on and off the premises. There is clear animus between Mr. Galasso and Mr. Williams. However, notwithstanding the inappropriate behavior as chronicled in the file exhibits, the photographs and logs appear to show continued non-compliance.

Mr. Paul G. Miller testified that he drives by the subject site 3-4 times a day. He testified that the business of repairing ordinary passenger cars appears to be continuing unabated.

Debbie Jones testified for the Respondents. Ms. Jones, listed as the Resident Agent, believes that she is the owner of Specialty Automotive, LLC. See County Exhibit page #19 through #23. According to Ms. Jones, she operates Specialty Automotive, LLC as a minority business owner. She stated that customers leave cars on the weekends and evenings despite a sign informing customers to deliver the cars to the Hereford Shop. The sign is found on page #32 of County Exhibits. The sign is small and inconspicuous. County Exhibit #9 is a Court Order to erect sign at or near the driveway of Falls Road. There is evidence that the sign was down for a period of time due to fence painting. Ms. Jones testified that the shop is usually closed when Mr. Williams is home. Mr. Williams works during the daytime hours. Ms. Jones compiled a list of 64 vehicles repaired at the shop from January 1, 2006 through August 18, 2006. The list was not entered into evidence. Ms. Jones stated that no passenger cars were repaired at the property. She also stated that cars were not dropped off at the site while she is on the premises. She attributes the traffic to employee's cars, sales persons, lost persons, and turnarounds. Ms. Jones stated she does estimates on damage at the site "pretty much everyday" quickly changed to "about 2 times per week".

Ms. Jones and Mr. Galasso were allowed to view the County photographic exhibits and testify to what was done to a car, where it was eventually delivered to, why it came to be on the property, etc., etc.

Obvious efforts to obscure vision from offsite have been made. A fence blocks the view of the overhead door to the shop. Random inspections to verify compliance have been denied. A preponderance of the evidence continues to point to the fact that the owners of the subject property continue to allow the repair of regular passenger vehicles at this location. Vehicles are routinely dropped off and the property used for a transfer point contrary to the Order signed by Circuit Court Judge Robert E. Cadigan. County Exhibit page 46, 48 and 49 show regular passenger vehicles being worked on. Page 50 shows a sign touting repair of cars, light trucks, etc. It is the opinion of this Hearing Officer that the repair of ordinary passenger vehicles has continued unabated dating back to the year 2002 when the correction notice was issued and is continuing to this day.

It is also the opinion of this Hearing Officer that the owners of record, Steven Galasso and Joanne Galasso have allowed, aided and abetted the furtherance of repair to ordinary passenger cars via Specialty Automotive LLC doing business as The Valley Services Company.

IT IS ORDERED by the Code Enforcement Hearing Officer this 28th day of August 2006, that a civil penalty be imposed in the amount of $20,600.00 (twenty thousand six hundred dollars) payable on or before October 6, 2006.

Signed: Raymond S. Wisnom, Jr.
Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

The violator is advised that pursuant to §3-6-301(a), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §3-6-302(a)(b)(c)(d) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

RSW/jaf

(76)

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Automotive Emporium, Inc.
Joanne Galasso-Resident Agent
1401 Bank of America Center
100 S. Charles Street
Baltimore MD 21201

Respondent

Civil Citation No.05-8457 F

10905-10911 Falls Road

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on August 18, 2006, for a hearing on a citation for violations under the Baltimore County Code (BCC) section 32-3-102; Baltimore County Zoning Regulations (BCZR) section 500.9; 1A04; for non-compliance with Zoning Order. Failure to cease all repairing and painting of vehicles not approved in Zoning Order of #02-419 SPH on residential property zoned RC 5 known as 10905-10911 Falls Road, 21093.

On July 14, 2006, pursuant to §3-6-205, Baltimore County Code, Jerry Chen, Code Enforcement Officer, issued a code enforcement citation. The citation was legally served on the Respondents.

The citation proposed a civil penalty of $57,600.00 (fifty seven thousand six hundred dollars). A code enforcement hearing date was scheduled for August 18, 2006.

Testimony and evidence shows Automotive Emporium, Inc. to be dissolved as of March 10, 2006. The persons holding the property are held responsible for any violations determined to exist on the property.

August 29, 2006

(17)

I find Automotive Emporium, Inc. to have operated in violation of the Deputy Zoning Commissioner's Order #02-419 SPH by continuing to repair and paint ordinary passenger vehicles.

IT IS ORDERED by the Code Enforcement Hearing Officer this 29th day of August 2006, that the repair and painting of ordinary passenger vehicles cease and desist immediately.

Signed: Raymond S. Wisnom, Jr.
Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

The violator is advised that pursuant to §3-6-301(a), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §3-6-302(a)(b)(c)(d) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

RSW/jaf

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Specialty Automotive LLC
DBA The Valley Services Company
Debbie Jones-Resident Agent
10907 Falls Road
Lutherville-Timonium MD 21093

Respondent

Civil Citation No.05-8457 E

10905-10911 Falls Road

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on August 18, 2006, for a hearing on a citation for violations under the Baltimore County Code (BCC) section 32-3-102; Baltimore County Zoning Regulations (BCZR) section 500.9; 1A04; for non-compliance with Zoning Order #02-419 SPH; failure to cease all repairing and painting of vehicles not approved in Zoning Order #02-419 SPH on residential property zoned RC 5 known as 10905-10911 Falls Road, 21093.

On July 14, 2006, pursuant to §3-6-205, Baltimore County Code, Jerry Chen, Code Enforcement Officer, issued a code enforcement citation. The citation was legally served on the Respondents.

The citation proposed a civil penalty of $37,800.00 (thirty seven thousand eight hundred dollars). A code enforcement hearing date was scheduled for August 18, 2006.

Debbie Jones, Resident Agent appeared for the hearing and testified.

As Hearing Officer, I have decided to hold the listed property owners responsible for any violations determined to exist on subject property. The case has a history of change of ownership and company name changes associated with the subject site. In an effort to simplify the proceedings, I find Specialty Automotive LLC, DBA The Valley Services Company to be in violation of repairing ordinary passenger vehicles.

August 29, 2006

IT IS ORDERED by the Code Enforcement Hearing Officer this 29th day of August 2006, that the repair of ordinary passenger vehicles shall cease immediately.

Signed: Raymond S. Wisnom, Jr.

Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

The violator is advised that pursuant to §3-6-301(a), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §3-6-302(a)(b)(c)(d) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

RSW/jaf

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of:

Carroll Edward Long
William Edward Long
1619 Alston Road
Baltimore MD 21204

Respondents

Civil Citation No.05-8457 C & D

10905-10911 Falls Road

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on August 18, 2006, for a hearing on a citation for violations under the Baltimore County Code (BCC) section 32-3-102; Baltimore County Zoning Regulations (BCZR) section 500.9; 1A04; for non-compliance with Zoning Order. Failure to cease all repairing and painting of vehicles not approved in Zoning Order of #02-419 SPH on residential property zoned RC 5 known as 10905-10911 Falls Road, 21093.

On July 14, 2006, pursuant to §3-6-205, Baltimore County Code, Jerry Chen, Code Enforcement Officer, issued a code enforcement citation. The citation was legally served on the Respondents.

The citation proposed a civil penalty of $79,800.00 (seventy nine thousand eight hundred dollars). A code enforcement hearing date was scheduled for August 18, 2006.

Messrs Carroll E. and William E. Long, Respondents appeared for the hearing and testified.

August 29, 2006

(81)

Testimony and evidence shows Carroll Long the owner of the property and Mr. William Long with life remainder until the property was transferred to Joanne and Steven Galasso on March 16, 2006. The Longs presented no evidence that work on passenger cars ceased during the cited dates of November 3, 2005 through March 15, 2006. In fact, William Long stated that passenger vehicles have always been repaired on the property. The Longs contend the property is BL zone and that a zoning mistake is the cause of the residential zone that now exists on the property.

I find the Respondents in violation of allowing the repair of ordinary passenger vehicles on the property from November 3, 2005 continuing unabated to March 15, 2006, totaling 93 days.

IT IS ORDERED by the Code Enforcement Hearing Officer this 29th day of August 2006, that a civil penalty be imposed in the amount of $18,600.00 (eighteen thousand six hundred dollars) due on or before October 6, 2006.

Signed: _____
Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

The violator is advised that pursuant to §3-6-301(a), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §3-6-302(a)(b)(c)(d) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

RSW/jaf

COUNTY EXHIBIT 13

Contempt Finding

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Exhibit 13

May 29, 2007

Donna M.B. King, Esquire
LAW OFFICE OF DONNA M.B. KING, LLC
309 West Pennsylvania Avenue
Towson, MD 21204

RE: In the Matter of: *Steven Galasso and JoAnne Galasso; Specialty Automotive, LLC; Automotive Emporium, Inc. - Respondents/Appellants*
Case No. CBA-06-042 **/Civil Citation #05-8457 A & B, E, and F**

Dear Ms. King:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules of Procedure*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all subsequent Petitions for Judicial Review filed from this decision should be noted under the same civil action number as the first Petition.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator

Enclosure

c: Steven Galasso & JoAnne Galasso /8457 A & B
Specialty Automotive LLC /8457 E
Automotive Emporium Inc /8457 F
Paul Miller
Jerry Chen /Code Enforcement
Raymond S. Wisnom, Jr. / Code Enf. Hearing Official
Timothy M. Kotroco, Director /PDM
James Nolan, Jr., Assistant County Attorney
John E. Beverungen, County Attorney

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TIMOTHY M. KOTROCO	*	**IN THE**
and	*	**CIRCUIT COURT**
BALTIMORE COUNTY, MARYLAND	*	**OF MARYLAND**
Plaintiffs	*	**FOR**
vs.	*	**BALTIMORE COUNTY**
STEVE GALASSO t/a Lutherville Collision & Truck Center	*	**Case No. 03-C-04-6137**
and	*	
AUTOMOTIVE EMPORIUM, INC. t/a Valley Services Company	*	
Defendants	*	

* * * * * * * *

SHOW CAUSE ORDER

Upon consideration of the Motion of the Plaintiffs that Steve Galasso and Automotive Emporium, Inc. be held in civil contempt and for other relief, it is

ORDERED, this 25 date of October, 2005, by the Circuit Court for Baltimore County, that the Defendants Steve Galasso and an Officer of Automotive Emporium, Inc. be and are hereby directed to appear in person in this Court at 9:30 a.m./p.m. on the 13th date of December, 2005 for a hearing before a Judge of this Court at which time they shall show good cause why they should not be held in contempt of this Court; and it is further

ORDERED, that Steve Galasso and Automotive Emporium, Inc. are hereby directed to file an Answer to the Motion for Contempt within 10 days from the date upon

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FILED OCT 25 2005

which their counsel is served with this Order. ON OR BEFORE NOV 7, 2005 Failure to file such a timely Answer may lead to the entry of a finding of contempt by default against Steve Galasso and Automotive Emporium, Inc; and it is further

ORDERED, that service upon the Defendants Steve Galasso and Automotive Emporium, Inc. be effectuated by mailing a copy of this Show Cause Order to their counsel of record, Michael A. Jeter, 2122 Maryland Avenue, Baltimore, Maryland 21218.

True Copy Test
SUZANNE MENSH, Clerk
Per Donna Rebuck
Assistant Clerk

Judge

Date: 10/25/05

To Appear at:
401 Bosley Ave
Towson, MD

NOTICE: The show cause hearing may not be held, if the contempt petition and this show cause order are not served on the party.

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TIMOTHY M. KOTROCO	*	**IN THE**
and	*	**CIRCUIT COURT**
BALTIMORE COUNTY, MARYLAND	*	**OF MARYLAND**
Plaintiffs	*	**FOR**
vs.	*	**BALTIMORE COUNTY**
STEVE GALASSO t/a Lutherville Collision & Truck Center	*	**Case No. 03-C-04-6137**
and	*	
AUTOMOTIVE EMPORIUM, INC. t/a Valley Services Company	*	
Defendants	*	

* * * * * * * *

CONSENT JUDGMENT

This action came on for trial on the merits before the Court on July 7, 2005. Prior to taking testimony, the parties, by their respective counsel, advised the Court that they had agreed to the terms of a Consent Judgment. Accordingly, it is:

ORDERED, that any officer, director, stockholder, agent, employee, independent contractor, or assignee of Automotive Emporium, Inc. t/a Valley Services Company or t/a Lutherville Collision & Truck Center be and they are hereby enjoined from engaging in any of the following activities at 10905 or 10911 Falls Road, Lutherville, Maryland 21093: (1) operating a service garage or a body shop for the repair of passenger vehicles; (2) repairing, painting, or performing mechanical work on passenger vehicles; and (3)

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FILED JUL 15 2005

CL, Nolan, Jeter

using 10905 or 10911 Falls Road as a drop off or transfer point for passenger vehicles to be repaired or painted elsewhere; and it is further

ORDERED, that Automotive Emporium, Inc. erect a sign at or near the driveway of 10905 Falls Road informing customers that they may not leave their vehicles at that location; and it is further

ORDERED, that the Plaintiffs' Motion to Dismiss this action against Defendants William E. Long and Carroll E. Long without prejudice is hereby granted.

Robert E. Cadigan, Judge

Date: May 8, 2005

Consented to on behalf of their respective clients by:

James J. Nolan, Jr.
Attorney for Plaintiffs

Date: 7/8/05

Michael A. Jeter
Attorney for Defendants,
Steve Galasso and Automotive Emporium, Inc.

Date: 7/8/05

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TIMOTHY KOTROCO, et al. Plaintiffs	*	IN THE
	*	CIRCUIT COURT
v.	*	FOR
STEVEN GALASSO, et al. Defendants	*	BALTIMORE COUNTY
	*	Case No. 03-C-04-6137

* * * * * * * * * * * *

ORDER

The above captioned case came before this Court for a contempt hearing on December 14, 2005. At the close of the testimony, and after the arguments of counsel, this Court found both Steven Galasso and Automotive Emporium, Inc. in contempt of court. The matter was scheduled for disposition on February 16, 2006. After another full hearing, this Court ordered the Defendant to pay the sum of $100.00 per day for 146 days, or $14,600.00, payable within 60 days. This Court made no reference in its oral disposition of the contempt finding with respect to Automotive Emporium, Inc. The Court also failed to indicate specifically the identity of the payee of the fine. Plaintiffs, in their Motion for Reconsideration filed February 17, 2006, requested this Court to clarify (1) whether it intended to impose a fine or other punishment upon Automotive Emporium, Inc., and (2) to whom the fines are payable.

Having read and considered the Plaintiffs' Motion for Reconsideration and the Defendants' Opposition thereto, it is this 17th day of April 2006, by the Circuit Court for Baltimore County,

ORDERED that Defendants' Motion for Reconsideration be and hereby GRANTED; and it is further

ORDERED that both Steven Galasso and Automotive Emporium, Inc. are found in contempt and fined Fourteen Thousand Six Hundred Dollars ($14,600.00); and it is further

ORDERED that Steven Galasso and Automotive Emporium, Inc. be and hereby are jointly and severally liable for payment of the abovementioned fine; and it is further

ORDERED that remittance of the abovementioned fine shall be made on or before August 16, 2006, to Baltimore County; and it is further

ORDERED that the abovementioned fine be redistributed to Falls Road Community Association in the amount of Three Thousand Eight Hundred Fifty-Eight Dollars and Nine Cents ($3,858.09), and to Valley Planning Council in the amount of Ten Thousand Seven Hundred Forty-One Dollars and Ninety-One Cents ($10,741.91) as reimbursement for legal fees and expenses incurred during the course of these proceedings.

JUDITH C. ENSOR
JUDGE

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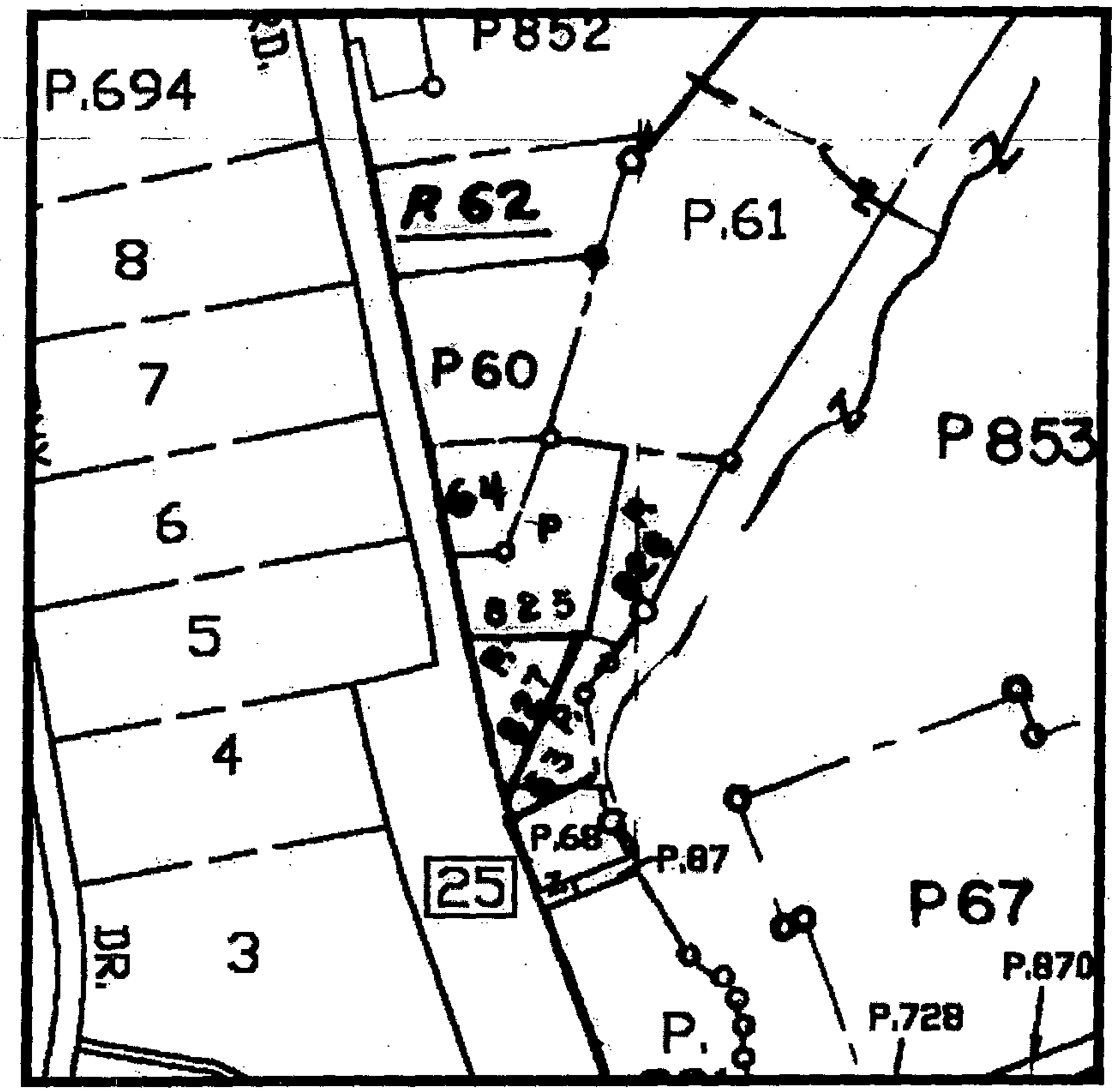
COUNTY EXHIBIT 14

SDAT and Deed Information

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search

District - 08**Account Number** - 2000011831



(10) (91)

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Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

Exhibit 14

In the Matter of — Civil Citation No.07-0546

Steven and Joanne Galasso — 10905-10911 Falls Road

Automotive Emporium, Inc.-Joanne Galasso, Resident Agent

Specialty Automotive LLC, dba The Valley Services Company # 1-Debbie Jones, Resident Agent

Respondents

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on March 9, 2007, for a hearing on a citation for violations under the Baltimore County Code (BCC) § 32-3-102, Baltimore County Zoning Regulations (BCZR) § 1A04; failure to comply with Zoning Order; failure to cease repair and painting of vehicles not approved in Zoning Order #02-419 SPH on residential property zoned RC 5 known as 10905-10911 Fall Road, 21093.

On February 2, 2007, pursuant to §3-6-205, Baltimore County Code, Jerry Chen, Code Enforcement Officer, issued a code enforcement citation. The citation was legally served on the Respondents.

The citation proposed a civil penalty of $36,200.00 (thirty six thousand two hundred dollars). A code enforcement hearing date was scheduled for March 9, 2007.

Steven Galasso, Respondent appeared for the hearing.
Donna M. B. King, Esquire appeared representing all other respondents.

Click here for a plain text ADA compliant screen.

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 08 **Account Number** - 2000011831

Owner Information

Owner Name:	GALASSO STEVEN L GALASSO JOANNE	**Use:**	COMMERCIAL
		Principal Residence:	NO
Mailing Address:	8509 THORNTON RD LUTHERVILLE MD 21093	**Deed Reference:**	1) /23642/ 637 2)

Location & Structure Information

Premises Address
10911 FALLS RD

Legal Description
ES FALLS RD
.97 AC
950 S SEMINARY AV

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No: Plat Ref:
60	13	825						2	

Special Tax Areas **Town** **Ad Valorem** **Tax Class**

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1947	4,450 SF	42,253.00 SF	04

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2005	Phase-in Assessments As Of 07/01/2005	As Of 07/01/2006
Land:	177,200	202,200		
Improvements:	130,600	135,500		
Total:	307,800	337,700	317,766	327,732
Preferential Land:	0	0	0	0

Transfer Information

Seller:	LONG CARROLL EDWARD	**Date:**	04/06/2006	**Price:**	$60,443
Type:	NOT ARMS-LENGTH	**Deed1:**	/23642/ 637	**Deed2:**	
Seller:	LONG CARROLL EDWARD	**Date:**	09/06/2001	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/15541/ 638	**Deed2:**	
Seller:	LONG HELEN L	**Date:**	12/11/1992	**Price:**	$1
Type:	NOT ARMS-LENGTH	**Deed1:**	/ 9505/ 89	**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2005	07/01/2006
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

(11) (92)

Click here for a plain text ADA compliant screen.

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 08 **Account Number** - 2000011832

Owner Information

Owner Name:	GALASSO STEVEN L GALASSO JOANNE	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	8509 THORNTON RD LUTHERVILLE TIMONIUM MD 21093-1895	**Deed Reference:**	1) /23540/ 333 2)

Location & Structure Information

Premises Address
FALLS RD

Legal Description
ESR FALLS RD
.677 AC
950 S SEMINARY AV

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No: Plat Ref:
60	14	826						2	

Special Tax Areas **Town**
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		29,620.00 SF	04

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2005	Phase-in Assessments As Of 07/01/2005	As Of 07/01/2006
Land:	3,700	3,700		
Improvements:	0	0		
Total:	3,700	3,700	3,700	3,700
Preferential Land:	0	0	0	0

Transfer Information

Seller:	LONG CARROLL EDWARD	**Date:**	03/16/2006	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/23540/ 333	**Deed2:**	
Seller:	LONG CARROLL EDWARD	**Date:**	09/06/2001	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/15541/ 638	**Deed2:**	
Seller:	LONG HELEN L	**Date:**	12/11/1992	**Price:**	$1
Type:	NOT ARMS-LENGTH	**Deed1:**	/ 9505/ 89	**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2005	07/01/2006
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

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FEE SIMPLE/CONSIDERATION
NO TITLE EXAMINATION/NO TITLE
NO TITLE INSURANCE

THIS DEED, made this 6th day of March, 2006, by and between CARROLL EDWARD LONG party of the first part, the Grantor, and STEVEN L. GALASSO AND JOANNE GALASSO, the parties of the second part, the Grantees.

WITNESSETH, the said Carroll Edward Long, the Grantor, the said party of the first part, does hereby grant, convey and assign, unto the said parties of the second part, Steven L. Galasso and JoAnne Galasso, his wife, as tenants by the entireties, their personal representatives, successors and assigns, and unto the survivor of them, in fee simple for the purchase price of $60,443.42 all that piece or parcel of ground lying and being in the Eighth Election District of Baltimore County, state of Maryland, as described in attached Exhibit A. The improvements thereon being known as 10911 Falls Road.

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

BEING the same parcel of ground which by deed dated August 14, 2001 and recorded among the Land Records of Baltimore County, Maryland in Liber No. 15541, folio 638, was granted and conveyed by Helen L. Long to Carroll Edward Long the Grantor herein.

TO HAVE AND TO HOLD said described lot of ground and premises to the Grantee, it successors and assigns, in fee simple.

AND the Grantor hereby covenants that he has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that he will warrant specially the property hereby conveyed; and that he will execute such further assurances of the same as may be requisite or necessary.

WITNESS the hand and see of said Grantor.

WITNESS:

Mary June Long

Carroll E. Long

Carroll E. Long

William E. Long

I hereby affirm that this document was prepared by one of the parties involved in this document.

JoAnne Galasso
JoAnne Galasso

(13) (94)

State of Maryland
Baltimore County

I HEREBY CERTIFY that on this 16 day of Mar 2006, before me, a Notary Public of the State aforesaid, personally appeared Carroll Edward Long has satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Pearl Barnett
Notary Public

My Commission Expires: 7-21-07

PEARL BARNETT NOTARY PUBLIC BALTIMORE CO. MD

(14) (95)

State of Maryland
Baltimore County

I HEREBY CERTIFY that on this 6 day of April 2006, before me, a Notary Public of the State aforesaid, personally appeared William E. Long has satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Pearl Barnett
Notary Public

My Commission Expires: 7-21-07

PEARL BARNETT NOTARY PUBLIC BALTIMORE CO. MD

Exhibit A

BEGINNING FOR THE SAME at a point on the east side of Falls Road (State Route 25) which is 40 feet wide at the distance of 800 feet more or less north of the centerline of the nearest improved intersecting street, Greenspring Valley Road, which is 60 feet wide. Thence the following courses and distance. North 03° 12' 00" West - 66.74', North 03° 12' 00" West - 61.33', South 80° 36' 00" East - 68.00', North 24° 55' 00" East - 176.00', South 79° 49' 00" East - 118.77', South 81° 16' 20" East - 133.25', South 30° 06' 05" West - 258.13', South 44° 36' 30" West - 70.23', North 59° 19' 40" West - 53.63', North 86° 25' 00" West - 151.58'. To the place of beginning as recorded in deed Liber 15541, folio 638. Also known as 10905 Falls Road and located in the 8th Election District, Third Councilmanic Disctrict.

BEING that same property which Deed dated August 14, 2001 and recorded among the Land Records of Baltimore County in Liber 15541, folio 638 was granted and conveyed from Helen L. Long unto Carroll E. Long.

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Exhibit 15

June 14, 2007

Donna M.B. King, Esquire
LAW OFFICE OF DONNA M.B. KING, LLC
309 West Pennsylvania Avenue
Towson, MD 21204

RE: In the Matter of: *Steven Galasso and JoAnne Galasso; Specialty Automotive, LLC; Automotive Emporium, Inc. - Respondents/Appellants*
Case No. CBA-07-114 **/Civil Citation #07-0546**

Dear Ms. King:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules of Procedure*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all subsequent Petitions for Judicial Review filed from this decision should be noted under the same civil action number as the first Petition.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C. Bianco, Jr.

Kathleen C. Bianco
Administrator

Enclosure

c: Steven Galasso & JoAnne Galasso
Specialty Automotive LLC
Automotive Emporium Inc.
Paul Miller
Jeffrey Radcliffe /Code Enforcement
Jerry Chen /Code Enforcement
Raymond S. Wisnom, Jr. / Code Enf. Hearing Official
Timothy M. Kotroco, Director /PDM
James Nolan, Jr., Assistant County Attorney
✓ John E. Beverungen, County Attorney

98

0023642 641

REAL ESTATE SALE/TRANSFER

BE IT KNOWN, for good consideration, and in payment of liens and encumbrances upon said property, the sum of sixty thousand, four-hundred forty-three Dollars and two cents, ($60,443.02), the receipt and sufficiency of which is acknowledged, the undersigned Carroll E. Long and William E. Long (Sellers) hereby transfer to Steven Galasso and JoAnne Galasso (Buyers) and the Buyer's successors and assigns forever, the following described chattels and personal property:

10911 Falls Road, Lutherville, MD 21093

BEGINNING FOR THE SAME at a point on the east side of Falls Road (State Route 25) which is 40 feet wide at the distance of 800 feet more or less north of the centerline of the nearest improved intersecting street, Greenspring Valley Road, which is 60 feet wide. Thence the following courses and distance. North 03° 12' 00" West - 66.74', North 03° 12' 00" West - 61.33', South 80° 36' 00" East - 68.00', North 24° 55' 00" East - 176.00', South 79° 49' 00" East - 118.77', South 81° 16' 20" East - 133.25', South 30° 06' 05" West - 258.13', South 44° 36' 30" West - 70.23', North 59° 19' 40" West - 53.63', North 86° 25' 00" West - 151.58'. To the place of beginning as recorded in deed Liber 15541, folio 638. Also known as 10905 Falls Road and located in the 8th Election District, Third Councilmanic District.

BEING that same property which Deed dated August 14, 2001 and recorded among the Land Records of Baltimore County in Liber 15541, folio 638 was granted and conveyed from Helen L. Long unto Carroll E. Long.

The Seller warrants to Buyer it has good and marketable title to said property, full authority to sell and transfer said property, and that said property is sold free of all liens, encumbrances, liabilities and adverse claims of every nature and description whatsoever.

Seller further warrants to Buyer that it will fully defend, protect, indemnify and hold harmless the Buyer and its lawful successors and assigns from any adverse claim made thereto by all persons whomsoever.

Said property is otherwise sold in "as is" condition and where presently located.

Signed this day of April, 2006

Signed in the presence of:

Witness: Debbie Jones — Seller: Carroll E Long

Witness: Debbie Jones — Seller: William E Long

Witness: JoAnne Galasso — Seller:

Witness: — Buyer: JoAnne Galasso

Witness — Buyer

STATE OF MARYLAND COUNTY OF Balt

I certify this to be a true and correct copy of the original presented before me this 10 day of Apr. 06.

PEARL BAILEY NOTARY PUBLIC BALTIMORE CO. MD

Page 1 of 2

17 98

LF135-1 • Rev. 04/05

1 Type(s) of Instruments	(☐ Check Box if addendum Intake Form is Attached.)				
	☒ Deed ☐ Deed or Trust	☐ Mortgage ☐ Lease	☐ Other _____ ☐ _____	☐ _____ ☐ _____	
2 Conveyance Type Check Box	☐ Improved Sale Arms-Length [1]	☐ Unimproved Sale Arms-Length [2]	☐ Multiple Accounts Arms-Length [3]	☐ Not an Arms-Length Sale [9]	
3 Tax Exemptions (if Applicable) Cite or Explain Authority	Recordation				
	State Transfer	Transferring ownership			
	County Transfer				

RECORDING FEE 20.00
TR TAX STATE 302.22
TOTAL 342.22
Rcpt # 361
Blk # 857
Apr 06, 2006 01:37 PM

4 Consideration and Tax Calculations	Consideration Amount		Finance Office Use Only Transfer and Recordation Tax Consideration	
	Purchase Price/Consideration	$ 60,443.02	Transfer Tax Consideration	$
	Any New Mortgage	$ 0	X ( ) % =	$
	Balance of Existing Mortgage	$ 0	Less Exemption Amount –	$
	Other:	$	Total Transfer Tax =	$ [redacted]
	Other:	$	Recordation Tax Consideration	$ 906.65
			X ( ) per $500 =	$ [redacted]
	Full Cash Value:	$	TOTAL DUE	$ 302.50

5 Fees 20 20 302.22	Amount of Fees	Doc. 1	Doc. 2	
	Recording Charge	$	$	Agent: JB
	Surcharge	$	$	Tax Bill: PD
	State Recordation Tax	$	$	
	State Transfer Tax	$	$	C.B. Credit: CB 60443.02
	County Transfer Tax	$	$	
	Other	$	$	Ag. Tax/Other:
	Other	$	$	

6 Description of Property	District	Property Tax ID No. (1)	Grantor Liber/Folio		Map	Parcel No.	Var. LOG
SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).	08	20-00-011831	1554	638	60	825	☐ (5)

Subdivision Name	Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	SqFt/Acreage (4)

Location/Address of Property Being Conveyed (2): 10911 Falls Road, Lutherville, MD 21093

Other Property Identifiers (if applicable) | Water Meter Account No.

Residential ☐ or Non-Residential ☑ | Fee Simple ☑ or Ground Rent ☐ Amount:

Partial Conveyance? ☐ Yes ☐ No | Description/Amt. of SqFt/Acreage Transferred:

If Partial Conveyance, List Improvements Conveyed:

7 Transferred From	Doc. 1 - Grantor(s) Name(s)	Doc. 2 - Grantor(s) Name(s)
	Carroll E. Long	
	Doc. 1 - Owner(s) of Record, if Different from Grantor(s)	Doc. 2 - Owner(s) of Record, if Different from Grantor(s)

8 Transferred To	Doc. 1 - Grantee(s) Name(s)	Doc. 2 - Grantee(s) Name(s)
	Steven L. Galasso JoAnne Galasso	
	New Owner's (Grantee) Mailing Address	
	8509 Thornton Rd. Lutherville MD 21093	

9 Other Names to Be Indexed	Doc. 1 - Additional Names to be Indexed (Optional)	Doc 2 - Additional Names to be Indexed (Optional)

10 Contact/Mail Information	Instrument Submitted By or Contact Person	
	Name: JoAnne Galasso	☒ Return to Contact Person
	Firm	☐ Hold for Pickup
	Address: 8509 Thornton Rd.	
	Lutherville, MD 21093 Phone: (410) 337-8816	☐ Return Address Provided

11 IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

Assessment Information

☐ Yes ☒ No Will the property being conveyed be the grantee's principal residence?
☐ Yes ☒ No Does transfer include personal property? If yes, identify: _____
☐ Yes ☒ No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Assessment Use Only - Do Not Write Below This Line

☐ Terminal Verification ☐ Agricultural Verification ☐ Whole ☐ Part ☐ Tran. Process Verification

Transfer Number:	Date Received:		Deed Reference:	Assigned Property No.:	
Year DC	20	20	Geo. (18)	Map	Sub	Block
Land Use			Zoning (99)	Grid	Plat	Lot

County Validation

CA $.00 CK $1,207.15 County, MaryLand

Maryland Department of Assessments and Taxation 1

Taxpayer Services Division
301 West Preston Street Baltimore, Maryland 21201

Taxpayer Services Division

Charter Search Results for: SPECIALTY AUTOMOTIVE%

Page 1 of 1

(Dept. ID)	Entity Name	Entity Detail			Status
(W11110038)	SPECIALTY AUTOMOTIVE LLC	General Info.	Amendments	Personal Property	ACTIVE

Maryland Department of Assessments and Taxation 1

Taxpayer Services Division
301 West Preston Street Baltimore, Maryland 21201

Taxpayer Services Division

Entity Name: SPECIALTY AUTOMOTIVE LLC
Dept. ID #: W11110038

General Information | **Amendments** | **Personal Property** | **Certificate of Status**

Principal Office (Current):	10903 10907 FALLS ROAD LUTHERVILLE, MD 21093
Resident Agent (Current):	DEBBIE JONES 10907 FALLS ROAD LUTHERVILLE, MD 21093
Status:	ACTIVE
Good Standing:	Yes
Business Code:	Other
Date of Formation or Registration:	02/10/2006
State of Formation:	MD
Stock/Nonstock:	N/A
Close/Not Close:	Unknown

Link Definition

General Information	General information about this entity
Amendments	Original and subsequent documents filed
Personal Property	Personal Property Return Filing Information and Personal Property Assessments
Certificate of Status	Get a Certificate of Good Standing for this entity.

~~20~~ 101

CORPORATE CHARTER APPROVAL SHEET

****EXPEDITED SERVICE**** **** KEEP WITH DOCUMENT ****

DOCUMENT CODE 40 BUSINESS CODE 20

_____

Close _____ Stock _____ Nonstock _____

P.A. _____ Religious _____

Merging (Transferor) _____

_____

_____

_____

Surviving (Transferee) _____

_____

_____

_____

1000361992541379

ID # W11110038 ACK # 1000361992541379
LIBER: B00917 FOLIO: 1161 PAGES: 0002
SPECIALTY AUTOMOTIVE LLC

MAIL BACK

02/10/2006 AT 01:20 P WO # 0001179919

New Name _____

_____

FEES REMITTED _____

Base Fee:	100	_____	Change of Name
Org. & Cap. Fee:	_____	_____	Change of Principal Office
Expedite Fee:	50	_____	Change of Resident Agent
Penalty:	_____	_____	Change of Resident Agent Address
State Recordation Tax:	_____	_____	Resignation of Resident Agent
State Transfer Tax:	_____	_____	Designation of Resident Agent and Resident Agent's Address
_____ Certified Copies			
Copy Fee:	_____	_____	Change of Business Code
_____ Certificates			_____
Certificate of Status Fee:	_____	_____	Adoption of Assumed Name
Personal Property Filings:	_____		_____
Mail Processing Fee:	5		_____
Other:	_____	_____	Other Change(s)
TOTAL FEES:	155		_____
			_____

Credit Card _____ Check ✓ Cash _____

_____ Documents on _____ Checks

Approved By: 02

Keyed By: _____

COMMENT(S):

Code _____

Attention: Debbie Jones

Mail: Name and Address

DEBBIE JONES
10907 FALLS RD
LUTHERVILLE MD 21093-1895

Stamp Work Order and Customer Number HERE

CUST ID:0001736881
WORK ORDER:0001179919
DATE:02-10-2006 01:20 PM
AMT. PAID:$155.00

21 10a

DB

ARTICLES OF ORGANIZATION

The undersigned, with the intention of creating a Maryland Limited Liability Company files the following Articles of Organization:

(1) The name of the Limited Liability Company is: Specialty Automotive LLC.

(2) The purpose for which the Limited Liability Company is filed is as follows: DBA The Valley Services CO NO. to Repair small, med and heavy duty trucks as well as Antiques and classics vehicles.

(3) The address of the Limited Liability Company in Maryland is: 10903-10907 Falls ✓ Road. Lutherville, md 21093.

(4) The resident agent of the Limited Liability Company in Maryland is: Debbie Jones ✓

whose address is 10907 Falls Rd ✓ Lutherville md 21093.

(5) [illegible]

Authorized Person(s)

(6) Debbie Jones.

Resident Agent

I hereby consent to my designation in this document

RETURN TO:

(7) Specialty Auto LLC.
10903-10907 Falls Rd.
Lutherville. md. 21093.

c:/mydocs/forms/ArticlesofOrganization 03/05

Room 801-301 West Preston Street – Baltimore, Maryland 21201
Phone: (410) 767-1350 – Fax: (410) 333-7097 – TTY Users call Maryland Relay 1-800-735-2258
Toll Free in MD: 1-888-246-5941 – website: http://www.dat.state

Maryland Department of Assessments and Taxation 1

Taxpayer Services Division
301 West Preston Street Baltimore, Maryland 21201

Taxpayer Services Division

Charter Search Results for: AUTOMOTIVE EMPORIUM%

Page 1 of 1

(Dept. ID)	Entity Name	Entity Detail			Status
(D03968690)	AUTOMOTIVE EMPORIUM, INC.	General Info.	Amendments	Personal Property	DISSOLVED

(23) (104)

Maryland Department of Assessments and Taxation

Taxpayer Services Division
301 West Preston Street Baltimore, Maryland 21201

Main Menu | Security Interest Filings (UCC) | Business Entity Information (Charter/Personal Property) New Search | Get Forms | Certificate of Status | SDAT Home

Taxpayer Services Division

Entity Name: AUTOMOTIVE EMPORIUM, INC.
Dept. ID #: D03968690

General Information | Amendments | Personal Property | Certificate of Status

Principal Office (Current):	10907 FALLS ROAD LUTHERVILLE, MD 21093
Resident Agent (Current):	JOANNE GALASSO 1401 BANK OF AMERICA CENTER 100 SOUTH CHARLES ST. BALTIMORE, MD 21201
Status:	DISSOLVED
Good Standing:	No
Business Code:	Ordinary Business - Stock
Date of Formation or Registration:	09/12/1994
State of Formation:	MD
Stock/Nonstock:	Stock
Close/Not Close:	Close

Link Definition

General Information	General information about this entity
Amendments	Original and subsequent documents filed
Personal Property	Personal Property Return Filing Information and Personal Property Assessments
Certificate of Status	Get a Certificate of Good Standing for this entity.

24 105

TIMOTHY M. KOTROCO	*	**IN THE**
and	*	**CIRCUIT COURT**
BALTIMORE COUNTY, MARYLAND	*	**OF MARYLAND**
Plaintiffs	*	**FOR**
vs.	*	**BALTIMORE COUNTY**
STEVE GALASSO t/a Lutherville Collision & Truck Center	*	**Case No. 03-C-04-6137**
and	*	
AUTOMOTIVE EMPORIUM, INC. t/a Valley Services Company	*	
Defendants	*	

Exhibit 16

* * * * * * * *

SHOW CAUSE ORDER

Upon consideration of the Motion of the Plaintiffs that Steve Galasso and Automotive Emporium, Inc. be held in civil contempt and for other relief, it is

ORDERED, this 25 date of October, 2005, by the Circuit Court for Baltimore County, that the Defendants Steve Galasso and an Officer of Automotive Emporium, Inc. be and are hereby directed to appear in person in this Court at 9:30 a.m./p.m. on the 13th date of December, 2005 for a hearing before a Judge of this Court at which time they shall show good cause why they should not be held in contempt of this Court; and it is further

ORDERED, that Steve Galasso and Automotive Emporium, Inc. are hereby directed to file an Answer to the Motion for Contempt within 10 days from the date upon

84 105

FILED OCT 25 2005

CORPORATE CHARTER APPROVAL SHEET

****EXPEDITED SERVICE**** **** KEEP WITH DOCUMENT ****

DOCUMENT CODE 19

BUSINESS CODE _____

D03968690

Close _____ Stock _____ Nonstock _____

P.A. _____ Religious _____

Merging (Transferor) _____

_____

_____

_____

Surviving (Transferee) _____

_____

_____

_____

1000361992687289

ID # D03968690 ACK # 1000361992687289
LIBER: B00930 FOLIO: 0728 PAGES: 0005
AUTOMOTIVE EMPORIUM, INC.

MAIL BACK

03/13/2006 AT 03:13 P WO # 0001195168

New Name _____

_____

FEES REMITTED _____

Base Fee:	100	____	Change of Name
Org. & Cap. Fee:	____	____	Change of Principal Office
Expedite Fee:	50	X	Change of Resident Agent
Penalty:	____	____	Change of Resident Agent Address
State Recordation Tax:	____	____	Resignation of Resident Agent
State Transfer Tax:	____	____	Designation of Resident Agent and Resident Agent's Address
____ Certified Copies			
Copy Fee:	____	____	Change of Business Code
____ Certificates			_____
Certificate of Status Fee:	____	____	Adoption of Assumed Name
Personal Property Filings:	____		_____
Mail Processing Fee:	5		_____
Other:	____	____	Other Change(s)
TOTAL FEES:	155		_____
			_____

Credit Card ____ Check ____ Cash X

____ Documents on ____ Checks

Approved By: _____

Keyed By: _____

COMMENT(S):

Code _____

Attention: [redacted] 50 Anne Galassi

Mail: Name and Address

[redacted] 50 Anne Galassi

1401 Bank of America Center

100 South Charles St.

Baltimore, md 21201 / c o

James Garland.

Stamp Work Order and Customer Number HERE

CUST ID:0001752130
WORK ORDER:0001195168
DATE:03-13-2006 03:13 PM
AMT. PAID:$155.00

(25) (106)

Articles of Dissolution

FIRST: The name of the corporation is

Automotive Emporium, Inc.

SECOND: The address of the principal office of the corporation is

10907 Falls Road, Lutherville, MD 21093

(NOTE: Address cannot be a post office box, include a street name and number. The address must be within Maryland.)

THIRD: The resident agent of the corporation who shall serve for one year after dissolution and until the affairs of the corporation are wound up is ~~James Garland, Attorney~~ JoAnne Galasso

whose address is ~~1401 Bank of America Center, 100 South Charles St. Baltimore, MD 21201-2725~~ 1401 Bank of America Center, 100 South Charles St Baltimore, MD 21201-2725

FOURTH: The name and address of each of the directors is as follows:

JoAnne Galasso
8509 Thornton Rd.
Lutherville, MD 21093

Steven Galasso
8509 Thornton Rd.
Lutherville, MD 21093

FIFTH: The name, title and street address of each of the officers is as follows:

JoAnne Galasso
President
8509 Thornton Rd.

Steven Galasso
Treasurer
8509 Thornton Rd.

JoAnne Galasso
Secretary
8509 Thornton Rd.

Steven Galasso, V.P.
Other
8509 Thornton Road

SIXTH: The dissolution of the corporation was approved in the manner and by the vote required by law and by the charter of the corporation. The dissolution of the corporation was duly authorized by the board of directors and stockholders of the corporation.

(*NOTE:* **For the specific procedures for approval by directors and stockholders, the charter and by-laws of the corporation the Corporations and Associations Article of the Annotated Code of Maryland should be consulted.)**

SEVENTH: Notice of approved dissolution was mailed to all known creditors of the corporation on _____. **OR** The corporation has no known creditors..

(*NOTE:* Use only one of the two statements in Article Seventh. If notice was mailed to creditors, Articles of Dissolution cannot be filed until after the 19th day following the mailing of the notice.)

EIGHTH: The corporation is dissolved.

NINTH: (OPTIONAL) Insert here all other provisions which the corporation considers necessary to dissolve.

The undersigned (president, vice president, secretary or assistant secretary) certify under the penalties of perjury that to the best of my knowledge, information and belief, the matters and facts set forth in these Articles of Dissolution with respect to the approval thereof are true in all material respects.

ATTEST:

Secretary or Assistant Secretary of Corporation

President or Vice President of Corporation

(*NOTE:* The officer attesting and the officer signing cannot be the same individual unless the corporation is a close or a professional service corporation.)

I hereby consent to my designation in this document as resident agent for this corporation.

SIGNED _____
Resident Agent

State of Maryland
Baltimore County

I HEREBY CERTIFY that on this 10 day of May 2006, before me, a Notary Public of the State aforesaid, personally appeared JoAnne Galasso has satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Pearl Barnett
Notary Public

My Commission Expires: 7-21-07

PEARL BARNETT NOTARY PUBLIC BALTIMORE CO. MD

~~28~~ 109

AFFIDAVIT

This is to attest that Automotive Emporium, Inc. owned no tangible personal property as of January 1, 2006.

This affidavit is for the purpose of dissolving this Maryland Corporation.

JoAnne Galasso

JoAnne Galasso, President
Automotive Emporium, Inc.

CUST ID:0001752130
WORK ORDER:0001195168
DATE:03-13-2006 03:13 PM
AMT. PAID:$155.00

(2nd) (110)

COUNTY EXHIBIT 15 A&B

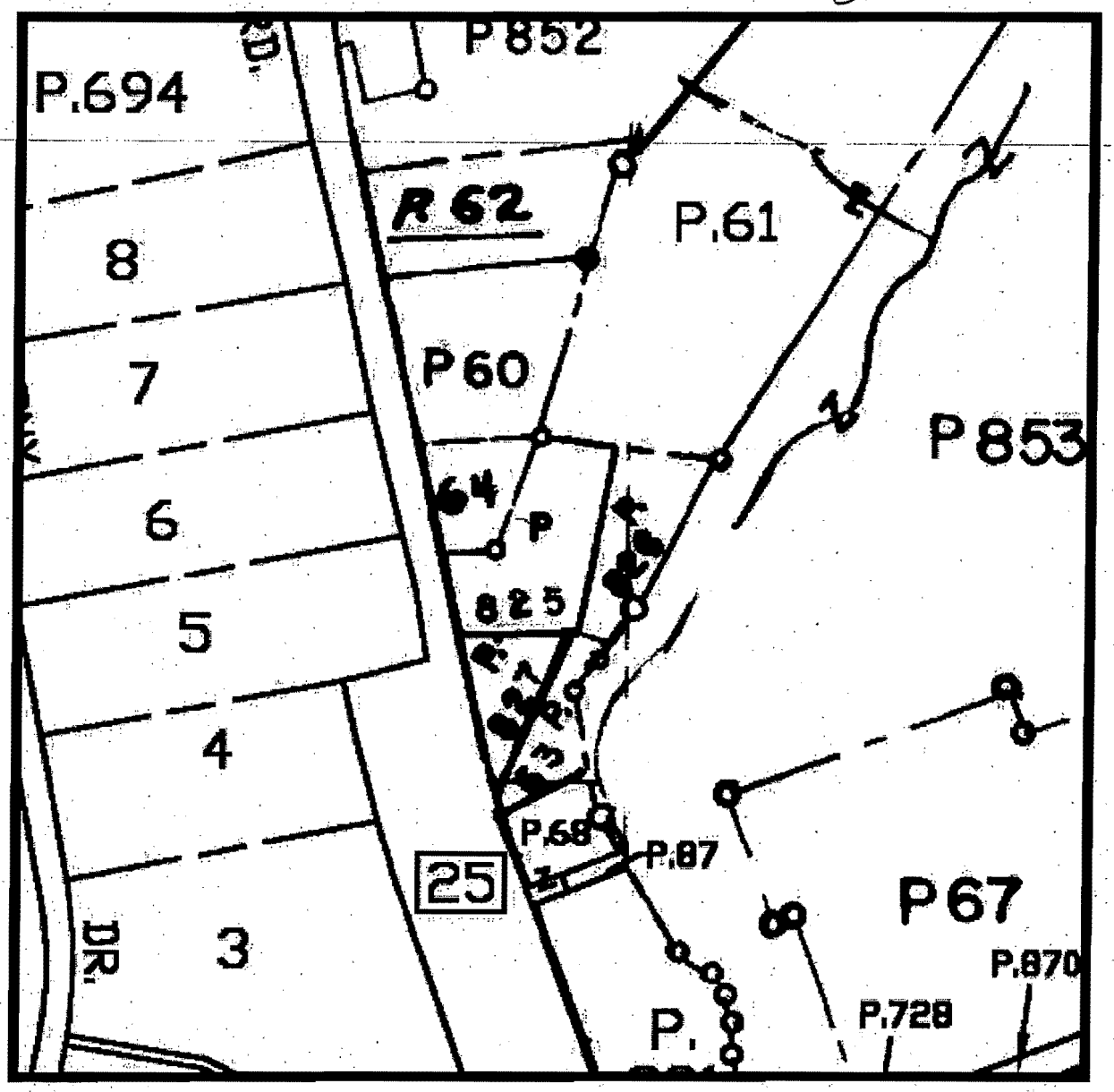
Sign Postings

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search

Exhibits 17

District - 08**Account Number** - 2000011831



Property maps provided courtesy of the Maryland Department of Planning ©2004.
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/webcom/index.html

(10) (91) (112)

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

November 30, 2006
TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

NEW NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 07-205-SPH
10905-10911 Falls Road
E/side of Falls Road (State Route 25), 800 feet north of Greenspring Valley Road
8th Election District – 2nd Councilmanic District
Legal Owners: Steven L. & JoAnne Galasso
Contract Purchaser/Petitioner: Timothy M. Kotroco, Baltimore County Department of Permits & Development Management

Special Hearing for the petitioner respectfully requesting that the Zoning Commissioner enter the attached Order scheduling a Special Hearing to determine whether to terminate the nonconforming use at 10905-10911 Falls Road under Section 104.8 of the BCZR and providing notice of said hearing to the persons or entities who are either the owners, tenant or entities having control of the land or use which is in violation of the County Code.

Hearing: Tuesday, January 9, 2007 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

Posted sign:
12/21/06 @ 10:30 AM JRA
2 photo's.

C: Steven & JoAnne Galasso
Wilham & Carroll Long
Specialty Automotive, LLC
Automotive Emporium, Inc.
Valley Services

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, DECEMBER 23, 2006.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

COUNTY EXHIBIT 16

Certificate of Publication

TRANSMISSION VERIFICATION REPORT

TIME : 01/08/2007 11:53
NAME : PERMITS & DEVELOPMET
FAX : 4108875708
TEL : 4108873353
SER.# : BROA4J222053

DATE,TIME	01/08 11:53
FAX NO./NAME	94108232321
DURATION	00:00:00
PAGE(S)	00
RESULT	BUSY
MODE	STANDARD

BUSY: BUSY/NO RESPONSE

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #V-109-SPH
10905-10911 Falls Road
E/side of Falls Road (State Route 23), 800 feet north of Greenspring Valley Road
8th Election District - 2nd Councilmanic District
Legal Owner(s): Steven L. & JoAnne Gallagin
Contract Purchaser/Petitioner: Timothy M. Kotroco, Baltimore County Department of Permits & Development Management

Special Hearing: for the petitioner respectfully requests that the Zoning Commissioner enter his attached Order scheduling a Special Hearing to determine whether to terminate the nonconforming use at 10905-10911 Falls Road under Section 104.6 of the BCZR and providing notice of said hearing to the persons or entities who are of the opinion that the owners, tenant or entities having control of the said or uses which is in violation of the County Code.

Hearing: Tuesday, January 9, 2007 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

12/152 Dec. 21 1119592

CERTIFICATE OF PUBLICATION

12/21, 2006

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 12/21, 2006.

- [X] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

(119)

01/08/2007 1:55PM

COUNTY EXHIBIT 17

Office of Planning Memo

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: November 20, 2006

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 10911 Falls Road

INFORMATION:

Item Number: 7-205

Petitioner: Baltimore County Department of Permits and development Management

Zoning: RC 5

Requested Action: Termination of non- conforming use

Pursuant to Section 104.8, the Zoning Commissioner may terminate a non-conforming use and require the use to revert to a use allowed under the existing zoning classification. The legal brief accompanying the petition contains an abundance of well-documented information that in the opinion of the Office of Planning should establish that the non-conforming use for the repair of classic cars and trucks has ceased. The courts have established that Lutherville Collision's use of the property for the bodywork and repair of passenger automobile cars and trucks is a zoning violation.

SUMMARY OF RECOMMENDATIONS:

Should the Zoning Commissioner rule that the non-conforming use has been abandoned, the property owner must convert the property to a legally permitted RC5 use. In the event that the use is a single-family residence the Office recommends the following restrictions:

1. If the existing office known as 10911 Falls Road is converted to a single family dwelling, obtain a side yard setback variance for a 4-foot side yard setback in lieu of the required 50 feet. The Office of Planning is required to issue a finding of compliance with the RC5 zone prior to issuance of any building permits.
2. Note on any future plans that the property is within the traffic shed of Falls Road and Greenspring Valley Road, which is operating at an "F" Level of Service.
3. Note on any future plans that Falls Road is a scenic route.
4. Note on any future plans that the existing building known as 10911 Falls Road is historic. It is on the County Register (MHT)# BA-1590 and is a contributing structure in the Greenspring Valley National Register District. Any future demolition requests must be reviewed by the Baltimore County Landmarks Commission and may require an administrative special hearing.
5. Raze the existing repair shop after appropriate planning review if required (i.e. landmarks preservation).

6. Remove all commercial signs.
7. Remove most of the paved surface and submit a landscape plan for approval. The area must be re-vegetated within six months.

For further information concerning the matters stated here in, please contact Diana Itter at 410-887-3480.

Prepared by: _____

Division Chief: _____
AFK/LL: CM

W:\DEVREV\ZAC\7-205.doc

PETITION FOR SPECIAL HEARING **E/s Falls Road, 930'S** **Center line of Seminary Avenue** **8th Election District** **3rd Councilmanic District** **(10905-10911 Falls Road)** **RC5 Zoning**	*	**BEFORE THE** **ZONING COMMISSIONER** **FOR** **BALTIMORE COUNTY**

* * * * * * * * * * * * *

INDEX OF BALTIMORE COUNTY'S EXHIBITS

BALTIMORE COUNTY
EXHIBIT NO. 5

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2006, Legislative Day No. 15

Bill No. 105-06

Mr. Kevin Kamenetz, Councilman

By the County Council, August 7, 2006

AN ACT concerning

Nonconforming Uses

FOR the purpose of authorizing the Zoning Commissioner to terminate a nonconforming use under certain conditions; and generally relating to the termination of a nonconforming use.

BY adding

Section 104.8

Baltimore County Zoning Regulations, as amended

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND that Section 104.8 be and it is hereby added to the Baltimore County Zoning Regulations, as amended, to read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

(2)

County Exhibits

Duplicate

County ✓ 17 - Various Exhibits Dwgs

✓ 18 - Sgt Wilson Photos - Rejected

✓ 19 - Lot D Autos pre ED

✓ 20 - Long 2004 CZUP Applcnt pg 209 & 222

MISSING ✓ 21 Agent with National Motor Sales Corp Report

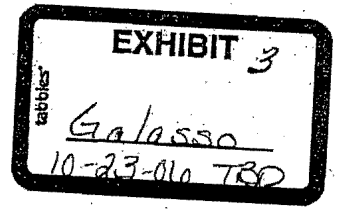
✓ 22 Advertisement for Dwg Rejected

SEPTEMBER 8, 2005 INCIDENT

Co. Exhibit # 18
(rejected)

Feb-04	Name	Vehicle year and type	Cost of Repairs	Expected # of days in paint shop	Actual # of days in paint shop
2/23/2004	Marina Popel	2002 Inifiniti I35	$1,856.90	1.5	2.5
2/12/2004	Marcia Coyle	2003 Infiniti G35	$1,281.63	Information Not	Available
2/19/2004	Marian Roberts	1997 Mazda 626	$2,544.14	1.5	2.5
2/26/2004	Daniel Schaefer	91 Nissan 300 ZX	$1,153.11	1	2
2/26/2004	Nawal Shafik	2001 Infiniti G20	$1,460.00	0	0
2/17/2004	Cheryl McLain	2000 Hyudani Elantra	$2,438.18	Information Not	Available
2/26/2004	James Morris	2002 Nissan Maxima	$830.64	1.2	2.2
2/11/2004	Lynn Mulder	2003 Isuzu Rodeo	$4,873.36	1.5	3.5
2/26/2004	Doris Murphy	2003 Kia Rio Cinco	$2,777.12	2	4
2/23/2004	Nationwide	2002 Nissan Altima	$101.00	1 hour	1 day
2/26/2004	Nationwide	2004 Nissan 350Z	$200.00	0	0
2/12/2004	Nationwide	2002 Nissan Frontier	$165.00	0.5	1.5
2/12/2004	Nationwide	2000 Infiniti QX4	$346.10	0.5	1.5
2/12/2004	Nationwide	2004 Nissan Sentra	$649.50	1	2
2/3/2004	Nationwide	2003 Santa Fe	$394.60	0.5	1.5
2/10/2004	Nationwide	2002 Infiniti I35	$1,545.17	2	3
2/25/2004	Nationwide	2002 Infiniti I35	$1,986.95	2.2	3.2
2/4/2004	Nationwide	2004 Suzuki XL7	$458.10	0.5	1.5
2/4/2004	Nationwide	2003 Infiniti G35	$399.80	0.5	1.5
2/17/2004	Michelle Pollock	2001 Nissan Maxima	$1,527.55	Information Not	Available
2/12/2004	Sergey Belyakov	2002 Infiniti I35	$3,170.61	2	3
2/23/2004	Brian Bluefeld	2003 Infiniti FX35	$1,127.57	1	2
2/23/2004	Nancy Bridge	2000 Nissan Altima	$1,375.09	1	2
2/13/2004	Sue Carey	2003 Nissan Altima	$4,624.30	5	6
2/25/2004	Carlton Copeland	2004 Kia Sedona	$1,046.57	1.5	3.5
2/5/2004	Cynthia Cuthrell	2002 Nissan Altima	$505.15	0.5	1.5

County Exhibit 19



LONG 2004 CZMP APPLICATION

County Ex 20.

AGREEMENT W/ NATIONWIDE MOTOR SALES CORP.

Gmth Ex. 21

ADVERTISEMENT

Petition for Zoning Re-Classification

Hereby petition that the zoning status of the below decreed property be reclassified pursuant to the zoning law of Baltimore County from an "A" Residence Zone to an "E" Commercial Zone.

On Monday, January 13, 1947

All that parcel of land situate on the east side of Falls Road, Brooklandville, in the 8th District of Baltimore County, beginning 990 feet north of Valley Road, thence north, on said side of Falls Road, 300 feet with a rectangular depth easterly of 150 feet.

Approved:

By Order of Charles H. Doring
ZONING COMMISSIONER
OF BALTIMORE COUNTY

ADVERTISEMENT

Rejected
City Ex 22

PETITIONER/
DEVELOPER
EXHIBITS

20070205 "A"
supplemental

4

B71459 N2

Case No.: 07-205 SPH

Exhibit Sheet

	Petitioner/Developer	Protestant
No. 1	PRELIMINARY MOTION EXHIBITS 15 A & B	Permits & Dev. Mangmt Correspondence 4/10/06 - Denial of Protestants Request
No. 2	PRELIMINARY MOTION EXHIBIT 16 - Publication	Collectively # 2 A-2 pcs B-2 pcs. Invitations to County for site visit.
No. 3	County Exhibit 2 [objected to as to other entities]	Notes of Wm Long ON Zoning History (ID only)
No. 4	[County Exhibits 3 A+B]	
No. 5	BALTO. COUNTY INDEX OF EXHIBITS	
No. 6	Collectively - individual Citations	
No. 7	BRA of Appeals Remand.	
No. 8	Response to Protest #2	
No. 9	105-06 A - 2 CDs Film Clips B - Photos Subsequent Violations	10/06 11/06 by Mr. Robert Wm.
No. 10	Response & Application for Rezoning. (ID only)	1/5/07
No. 11		
No. 12		

See Pg. 111 of Exh. 5

CITATIONS

IST CODE ENFORCEMENT

BALTIMORE COUNTY

EXHIBIT NO. 6

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement:	410-887-3351	Plumbing Inspection:	410-887-36
Building Inspection:	410-887-3953	Electrical Inspection:	410-887-39

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
02-0020-C	–	RC-5

Name(s): Lutherville Collision and Truck Center
Steve Galasso - Owner

Address: 8509 Thornton Rd. 21093

Violation Location: 10905-11 Falls Rd. Lutherville Md. 21093

Violation Dates: 3/10/04 thru 8/25/04 169 days

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCZR 1A04.1; 102.1; 500.6; 500.7; 409.8.A.2

1.) Non-Compliance with Zoning order dated 11/7/02 and amended order dated 1/7/03 Case # 02-419 SPH and approved site plan

A. Working on vehicles that are not antique and/or classic vehicles, Large Trucks and/or specialty vehicles

B. Parking in restricted area. (Per photos available

Pursuant to Section 18, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $67,600.00

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Date: 8/25/04 Time: 9AM

Citation must be served by: Date: 7/21/04

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are tru and correct to the best of my knowledge, information, and belief.

Print Name: WASILEWSKI

7/6/04 Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name:	Citation/Case No.:
	02-0020-C L

Address:

Date Defendant's Signature

AGENCY

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement:	410-887-3351	Plumbing Inspection:	410-887-3620
Building Inspection:	410-887-3953	Electrical Inspection:	410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
02-0020-D	2000011831	RC-5

Name(s): William E Long
10911 Falls Rd.

Address: Lutherville, Md 21093

Violation Location: 10905 - 11 Falls Rd. 21093

Violation Dates: 3/10/04 thru 8/25/04 169 days

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCZR 1A04.1; 102.1; 500.6; 500.7, 409.8.A.2

1.) Non-Compliance the Zoning orders dated 11/2/04 and amended order dated 1/7/03 Case # 02-419 SPH and approved site plan.

A) Working on vehicles that are not ant. que and/or classic vehicles, large trucks, or specialty vehicles.

B. Parking in restricted area. (non dustless durable surfaces)

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $ 67,600.00

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Date: 8/25/04 Time: 9AM

Citation must be served by: Date: 7/21/04

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: WASILEWSKI

7/6/04 Wasilewski
Date / Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name:	Citation/Case No.: 02-0020-D
Address:	

Date / Defendant's Signature

AGENCY

CITATIONS

2ND CODE ENFORCEMENT

Baltimore County
Department of Permits and Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
05-0457B	—	RC-5

Name(s): Lutherville Collision and Truck Center
Steve Galassi - Owner - Occupant/Lessee

Address: 10905-11 Falls Rd Lutherville Md 21093

Violation Location: 10905-11 Falls Rd 21093

Violation Dates: 11/4/04 thru 3/30/05 116 days

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCZR 1A04.1, 1A04.2.A+B, 102.1, 409.8.A.2, 500.6, 500.7
BCC 3-6-401, 3-6-402, 32-3-102, ZCPM 500.9

1) Non-Compliance with Zoning Order dated 11/7/02 as amended on 1/7/03. Case # 02-419-SPH.

2) Non Compliance with the Hearing Officers order dated 11/3/04

A. Working on vehicles restricted by order dated 11/7/02 as amended 1/7/03

B. Parking in an unapproved area on non dustless/durable surface.

Pursuant to Section 1-8, Baltimore County Code a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $ 46,400.00

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Date: 3/30/05

Reference Enforcement Case # 02-0020 Time: 9 AM

Citation must be served by: Date: 2/10/05

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: WASILEWSKI

1/25/05 Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name: Citation/Case No.: 05-0457B-CW

Address:

Date Defendant's Signature

3A

AGENCY

Not Served

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning
05-0457C	—	RC-5

Name(s): Automobile Emporium Inc
T/A Jo Anne Galasso

Address: 8509 Thornton Rd Lutherville Md 21093

Violation Location: 10905-11 Falls Rd 21093

Violation Dates: 11/4/04 thru 3/30/05 116 Days

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCZR 1A04.1, 1A04.2.A+B, 102.1, 409.8.A.2, 500.6, 500.7
BCC 3-6-4014402, 32-3-102, 2CFR 500.9

1.) Non Compliance with Zoning Order dated 11/7/02 as amended on 11/7/03. Case #02-419-SPH

2.) Non Compliance with the Hearing Officers order dated 11/3/04

A) Working on vehicles restricted by order dated 11/7/02 amended 11/7/03

B) Parking in an unapproved area on non dustless surfaceable surface

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $ 46,400.00

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Reference Enforcement Case # 02-0029 — Date: 3/30/05 — Time: 9AM

Citation must be served by: Date: 2/10/05

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: W. Aslewski

1/25/05 — Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name: — Citation/Case No.: 05-0457C-W

Address:

3B

Date — Defendant's Signature

AGENCY

Baltimore County
Department of Permits and
Development Management

Not Issued

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351 Plumbing Inspection: 410-887-3620
Building Inspection: 410-887-3953 Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
05-0457D	—	RC5

Name(s): Valley Sources, Inc.
Occupant/Lessee R/A Jo Anne Galasso

Address: 8509 Thornton Rd Lutherville MD 21093

Violation Location: 10905-11 Falls Rd 21093

Violation Dates: 11/4/04 thru 3/30/05 116 days

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCZR 1A04.1, 1A04.2.A+B, 102.1, 409.8.A.2, 500.6, 500.7

BCC 3-6-401+402; 32-3-102 2 CPM 500.9

1.) Non Compliance with Zoning Order dated 11/7/02 as Amended on 1/7/03 Case # 02-419-SPH

2.) Non Compliance with the Hearing Officers order dated 11/3/04

A.) Working on vehicles restricted by order dated 11/7/02 as amended 1/7/03

B.) Parking in an unapproved area on a non-dustless and durable surface

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $ 46,400.00

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Date: 3/30/05 Time: 9AM

Reference Enforcement Case # 03-0020

Citation must be served by: Date: 2/16/05

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: Lisa Lewis

1/25/05 Lisa Lewis
Date Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name: Citation/Case No.: 05-0457D CW

Address:

3C

Date Defendant's Signature

AGENCY

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351 Plumbing Inspection: 410-887-3620
Building Inspection: 410-887-3953 Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
05-0457B	-	RCS

Name(s): Lutherville Collision and Truck Center
Steve Galasso - Owner - Occupant / Lessee

Address: 10905-11 Falls Rd 21093 Lutherville MD

Violation Location: 10905-11 Falls Rd 21093

Violation Dates: 11/4/04 thru 4/29/05 146 Days

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCZR 1A04.1, 1A04.2.A+B, 102.1, 409.8.A.2, 500.6, 500.7
BCC 3-6-401 & 402, 32-3-102, ZCPM 500.9

1) Non Compliance with Zoning order dated 1/7/02 as Amended on 1/7/03 Case #02-419 SPH

2) Non Compliance with the hearing Officers order dated 11/3/04. A) Working on vehicles restricted by order dated 11/7/02 amended 1/7/03

B) Parking in an unapproved area and a non dustless and durable surface.

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $ 52,400.00

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Date: 4/29/05

Reference Enforcement Case #02-0020 Time: 9 AM

Citation must be served by: Date: 3/17/05

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: L Jasiewski

3/2/05 L Jasiewski
Date Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name: Citation/Case No. 05-0457B LW

Address:

3D

Date Defendant's Signature

AGENCY

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning
05-0457 C	—	RC-5

Name(s): Automotive Emporium, Inc.
R/A Jo Anne Galasso

Address: 8509 Thornton Rd Littlerock MD 21093

Violation Location: 10905-11 Falls Rd. 21093

Violation Dates: 11/4/05 thru 4/29/05 146 Days

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCZR 1A04.1, 1A04.2.A.4.B, 102.1, 409.3.A.2, 500.6, 500.7
BCC 32-4-401, 32-4-408, 32-3-102; 7 CBM 500.9

1.) Non Compliance with Zoning Order dated 11/7/05 as amended on 11/7/03 Case #02-419-SPH

2.) Non Compliance with the Hearing Officers order dated on 3/04/03

A.) Working on vehicles restricted by order dated 11/7/02 amended 11/7/03

B.) Parking in an unimproved area not constructed and durable surface

Pursuant to Section 1.8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $ 58,400.00

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Reference Enforcement Case # 02-0020

Date: 4/29/05 @ 9AM

Citation must be served by: Date: 3/17/05

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: L. Dasilewski

3/2/05 L. Dasilewski
Date Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name: Citation/Case No.: 05-0457 C

Address:

3E

Date Defendant's Signature

VIOLATION SITE

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
D5-0457D	—	RC

Name(s): Valley Services Inc
Occupant/Lessee % Jo Anne Galasso

Address: 10905 Thurston Rd Lutherville MD 21093

Violation Location: 10905-11 Falls Rd 21093

Violation Dates: 11/4/04 thru 4/29/05 146 Days

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCZR 1A04.1; 1A04.2.A+B; 102.1; 409.8.A.3; 500.6; 500.7
BCC 3-6-401 & 402; 32-3-102; 7CPM 500.9

1) Non-Compliance with Zoning Order dated 11/7/02 as Amended on 1/7/03 Case # 02-419 SPH

2) Non-Compliance with the Hearing Officers order dated 1/3/04
A) Working and vehicles restricted by order dated 1/7/03 as Amended 1/2/03
B) Parking in an unpaved area and non dustless and durable surface

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $ 58,400.00

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Date: 4/29/05 (W)

Reference Enforcement Case #02-0020 Time: 9AM

Citation must be served by: Date 3/17/05

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: L Wasilewski

3/2/05 Wasilewski
Date Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name: Citation/Case No.: D5-0457D LW

Address:

3F

Date Defendant's Signature

VIOLATION SITE

CITATIONS

3RD CODE ENFORCEMENT

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
05-8457-C		RC-5

Name(s): Automotive Emporium Inc.
R/A J. Ann Galasso

Address: 8509 Thornton Rd Lutherville MD 21093

Violation Location: 10905-11 Falls Rd 21093

Violation Dates: 5/26/05 thru 11/2/05 161 Days

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCZR 1A04.1; 1A04.2.A+B; 102.1; 409.8.A.2; 500.6; 500.7; 2AM500.9
BC 3-6-401+402; 32-3-102; 32-3-602 (a)(2) 1) Non-Compliance with Zoning order dated 11/7/02 as amended on 1/7/03 Case #02-419 SPH 2.) Non-Compliance with the Hearing Officer orders dated 11/3/04 and 5/25/05 A) Working on Vehicles Restricted by order dated 11/7/02 as amended 11/7/03
B. Commercial parking in unapproved areas.

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $ 64,400.00

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Date: 11/2/05 Time: 9AM

Citation must be served by: Date: 9/21/05

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: L. Wasilewski

9/6/05 L. Wasilewski
Date Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning
05-8457-D		RC

Name(s): Valley Services, Inc
Occupant/Lessee R/A To Anne Galasso

Address: 8509 Thornton Rd Lutherville Md 21093

Violation Location: 10905-11 Falls Rd 21093

Violation Dates: 5/26/05 thru 11/2/05 161 days

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCZR 1A04.1; 1A04.2.A+B; 102.1; 409.8.A.2; 500.6+.7 ZCPM 500.9
BCC 3-6-401+402; 32-3-102; 32-3-602 1) Non Compliance with Zoning order dated 11/7/02 as amended on 1/7/03 Case # 02-419 SPH 2) Non Compliance with the Hearing Officers orders dated 11/9/04 and 5/26/05: A) Working on vehicles restricted by order dated 11/7/02 as amended on 1/7/03 B) Parking in unapproved areas (Commercial)

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $ 64,400.00

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Date: 11/2/05.
Reference Enforcement Cases Time: 9 AM
05-0020 & 05-0457

Citation must be served by: / Date: 9/21/05

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: W Asilewski

9/6/05 W Asilewski
Date Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
05-8457-A	3900011931 3900011832	RC-5

Name(s): William E. Long

Address: 10911 Falls Rd
Lutherville, Md 21093

Violation Location: 5/26/05 thru 11/2/05 161 days

Violation Dates: 10905-11 Falls Rd 21093

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

B.C.Z.R. 1A04.1; 1A04.2.A.4.B, 102.1; 409.8.A.2; 500.6; 500.7 ~~7CPM~~ 500.9
Bcr. 32-3-602(a)(2) 32-3-102; 3-6-401, 402 1) Non Compliance with Zoning order dated 11/7/03 And amended order dated 11/7/03 Case # 02-419 SPH 2) Non Compliance with the Hearing Officers orders dated 11/3/04 and 5/4/05 A) Working on vehicles restricted by order dated 11/7/03 As Amended 11/7/03 B) Parking in unapproved areas

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $ 64,400.00

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Date: 11/2/05
Reference Enforcement Cases 02-0020 & 05-0457-A Time: 9AM

Citation must be served by: Date: 9/21/05

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: Wasilewski

9/6/05 Wasilewski
Date Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
05-8457-B		RC-5

Name(s): Lutherville Collision and Truck Center
Steve Galasso - Owner - Occupant/Lessee

Address: 10905-11 Falls Rd Lutherville Md. 21093

Violation Location: 10905-11 Falls Rd 21093

Violation Dates: 5/26/05 thru 11/2/05 161 days

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCZR 1A04.1; 1A04.2.A+B; 102.1; 409.8.A.2; 500.6; 500.7; ZCPM 500.9 Bcl 3-6-401 & 402; 32-3-102; 32-3-602.(a)(2) 1) Non Compliance with the Zoning order dated 11/7/02 as amended on 1/7/03 Case # 02-519 SPH. 2) Non Compliance with the Hearing Officers order dated 11/3/04 and 5/25/05. A) Working on vehicles restricted by order dated 11/7/02 as amended on 1/7/03

B) Commercial parking in unapproved areas

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $ 64,400.00

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Reference Enforcement Cases 02-0020 and 05-0457
Date: 11/2/05
Time: 9AM

Citation must be served by: Date: 9/21/05

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: G. Asikewski

9/6/05 _____
Date Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Baltimore County
Department of Permits and
Development Management

Code Inspections and [illegible]ment
County Office Building
111 West Chesapeake A
Towson, MD 21204

Code Enforcement:	410-887-3351	Plumbing Inspection:	410-887-3620
Building Inspection:	410-887-3953	Electrical Inspection:	410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
05-8457	30 DD0 11831 30 DD0 11832	RC-5

Name(s): Carroll E Long
1619 Alston Rd

Address: Lutherville-Timonium Md. 21093

Violation Location: 10905 Falls Rd.

Violation Dates: 5/26/05 thru 11/2/05 161 days

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCZR 1A04.1; 1A04.2A+B, 102.1; 409.8.A.2; 500.6; 500.7; ZCPM 6.a.9 BCC 32-3-102; 32-3-602(a)(2); 3-6-401 & 402 1) Non Compliance with Zoning order dated 11/7/02 and amended order dated 1/7/03. Case # 02-419 SPH 2) Non Compliance with the Hearing Officers orders dated 11/3/04 AND 5/4/05 A) Working on vehicles restricted by order dated 11/7/02 as amended 1/7/03. B) Commercial Parking in UNApproved Areas. LL82

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $ 64,400.00

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Reference Enforcement Cases 02-0020 & 05-0457
Date: 11/2/05
Time: 9AM

Citation must be served by: Date: 9/21/05

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: Wasilewski

9/6/05 — Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name:	Citation/Case No.:
	05-8457

Address:

Date — Defendant's Signature

DEFENDANT

CITATIONS

4TH CODE ENFORCEMENT

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
05-8457 A	2000011831 2000011832	RC-5

Name(s): Steven L. Galasso

Address: 8509 Thornton Rd. Lutherville, MD 21093

Violation Location: 10905-10911 Lutherville, MD 21093

Violation Dates: 4/16/6 cont thru 8/18/6

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCC: 323-102; BCZR: 500.9; 1804
Non compliance w/ zoning order.
Failure to cease all repairing and painting of vehicle(s) not approved in zoning order 02-419SPH

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: 124 DAYS — $ 24,800 00

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Date: 8/18/6 W — Time: 9 AM

Citation must be served by: 1st Class Mail — Date: —

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: Chen, Jerry

Date 7/14/6 Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name: — Citation/Case No.:

Address:

Date — Defendant's Signature

(2) AGENCY

Balti[illegible] County
Department of Permits and
Development Management

Code Inspecti[illegible] nd Enforcement
County Office [illegible]ding
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
05-8457-B	2000011831 2000011832	RC-5

Name(s): JOANNE Galasso

Address: 8509 Thornton Rd. Lutherville, MD 21093

Violation Location: 10905-10911 Lutherville, MD 21093

Violation Dates: 4/16/16 cont thru 8/18/16

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCC: 32-3-102; BCZR: 500.9; 1A04
Non compliance w/ zoning order.
Failure to cease all repairing and painting of vehicle(s) not approved in zoning order 02-419spa

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: 124 DAYS — $ 24,800

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Date: 8/18/16 Time: 9 AM

Citation must be served by: 1st Class Mail — Date: —

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: Chen, Jerry

Date: 7/14/16 Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name: | Citation/Case No.:

Address:

Date | Defendant's Signature

AGENCY

3

Balt : County
Department of Permits and
Development Management

Code Inspection and Enforcement
County Office Bldg
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
05-8457C	2000011831 2000011632	RC-5

Name(s): Carroll Edward Long

Address: 1619 Alston Rd. Balt MD. 21204

Violation Location: 10905-10911 Falls Rd. Lutherville, MD 21093

Violation Dates: 11/3/05 cont. thru 3/16/06

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCC: 32-3-102; BCZR: 500.9; 1A04
Non compliance with zoning order
Failure to cease all repairing and painting of vehicle(s) not approved in zoning order 02-419spH.

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $ 19800.00

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Date: 8/18/6 Time: 9 AM

Citation must be served by: 1st class mail Date:

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: Chen, Jerry

Date: 7/14/6 Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name: Citation/Case No.:

Address:

Date Defendant's Signature

(4)

AGENCY

Balt[illegible] County
Depa[illegible]ent of Permits and
Development Management

Code Inspections and Enforcement
County Office [illegible]ing
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
05-8457 P	2000011831 2000011832	RC-5

Name(s): William Edward Long

Address: 10907 Falls Rd. Cutherville, MD 21093

Violation Location: 10905-10911 Falls Rd. Cutherville, MD 21093

Violation Dates: 11/3/05 cont thru 3/16/06

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCC: 32-3-102; BCZR: 500.9; 1404
Non compliance with zoning order. Faclure to cease all repairing and painting of vehicle(s) not approved in zoning order 02-479spth

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $ 79,800 DC

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Date: 8/18/6 Time: 9 AM

Citation must be served by: 1st class mail Date: ——

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: Chen, Terry

Date 7/14/6 Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name:	Citation/Case No.:
Address:	

Date Defendant's Signature (5)

AGENCY

Balti County
Department of Permits and
Development Management

Code Inspectio nd Enforcement
County Office ding
111 West Chesapeake Avenue
Towson, MD 21204

RA: Debbie Jones 10907 Falls Rd. Lutherville, MD 21093

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT CORPORATE OFFICER OWNER,TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
05-8457 E	2000011831 2000011832	RC-5

Name(s): (operator) Specialty Automotive LLC DBA, The Valley Services Company

principle Address: 10903-10907 Falls Rd. Lutherville, MD 21093

Violation Location: 10905-10911 Falls Rd. Lutherville, MD 21093

Violation Dates: 2/10/6 cont thru 8/18/6

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCC: 32-3-102; BCZR: 500.9; 1A04
Non compliance w/ zoning order
Failure to cease all repairing and painting of vehicle(s) not approved in zoning order 02-419-SPH.

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: 189 DAYS. $ 37,800.00

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Date: 8/18/6 Time: 9 AM

Citation must be served by: 1st Class Mail Date: _____

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: Chen, Jerry

Date: 7/14/6 Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name: Citation/Case No.:

Address:

Date Defendant's Signature

(6)

AGENCY

Balt. : County
Department of Permits and
Development Management

Code Inspecti and Enforcement
County Office ding
111 West Chesapeake Avenue
Towson, MD 21204

RA Address: 1401 Bank of America Ctr. 100 S. Charles ST. Balt MD 21201

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No.	Property No.	Zoning:
05-8457 F	2000011831	RC-5

Name(s): Automotive Emporium, Inc (Occupant/Lessee)
RA: JOANNE Galasso

principle Address: 10907 Falls Rd. Lutherville, MD 21093

Violation Location: 10905-10911 Falls Rd. Lutherville, MD 21093

Violation Dates: 11/3/05 cont thru 8/18/6

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCC: 32-3-102; BCZR: 500.9; 1A04.
Non-compliance w/ zoning order.
Failure to cease all repairing and painting of vehicle(s) not approved in zoning order 02-419SPH

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: 11/3/05 (58+230)=288 — $ 57,600.00

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: 11 — Date: 8/18/6 — Time: 9AM

Citation must be served by: 1st Class Mail — Date: ____

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: Chen, Jerry

7/14/6
Date

Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name:	Citation/Case No.:
Address:	

Date

Defendant's Signature

(7)

AGENCY

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

December 8, 2006

Donna M.B. King, Esquire
LAW OFFICE OF DONNA M.B. KING, LLC
309 West Pennsylvania Avenue
Towson, MD 21204

RE: In the Matter of: *Steven Galasso and JoAnne Galasso, Specialty Automotive, LLC, Automotive Emporium, Inc. - Respondents/Appellants*
Case No CBA-06-042 /**Civil Citation #05-8457 A & B, E, and F**

Dear Ms. King:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules of Procedure*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all subsequent Petitions for Judicial Review filed from this decision should be noted under the same civil action number as the first Petition.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C Bianco
Administrator

Enclosure

c: Steven Galasso & JoAnne Galasso /8457 A & B
Specialty Automotive LLC /8457 E
Automotive Emporium Inc /8457 F
Paul Miller
Jerry Chen /Code Enforcement
Raymond S. Wisnom, Jr / Code Enf Hearing Official
Timothy M Kotroco, Director /PDM
James Nolan, Jr., Assistant County Attorney
John E. Beverungen, County Attorney

BALTIMORE COUNTY
EXHIBIT NO. 7

BALTIMORE COUNTY
MARYLAND

JAMES I. SMITH, JR.
County Executive

JOHN E. BEVERUNGEN, *County Attorney*
Office of Law

September 7, 2006

Debbie Jones
Specialty Automotive
D B A Valley Services, Co.
10905 Falls Road
Lutherville, MD 21093

Re: *Your fax August 23, 2006 and letter of September 6, 2006*

Dear Ms Jones:

I responded to your fax of August 23, 2006 by letter dated August 28, 2006, a copy of which is enclosed. The same response applies to your September 6, 2006 letter.

Very truly yours,

James J. Nolan, Jr.
Assistant County Attorney

Cc: Timothy M. Kotroco, Director, PDM, M. S. 1105
Raymond S. Wisnom, Jr. Enforcement Hearing Off., PDM
James H. Thompson, Supervisor, Bureau of Code Enforcement
John E. Beverungen, County Attorney
Donna M. B. King, Esquire

BALTIMORE COUNTY
EXHIBIT NO. 8

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2006, Legislative Day No. 15

Bill No. 105-06

Mr. Kevin Kamenetz, Councilman

By the County Council, August 7, 2006

AN ACT concerning

Nonconforming Uses

FOR the purpose of authorizing the Zoning Commissioner to terminate a nonconforming use under certain conditions; and generally relating to the termination of a nonconforming use.

BY adding

Section 104.8

Baltimore County Zoning Regulations, as amended

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND that Section 104.8 be and it is hereby added to the Baltimore County Zoning Regulations, as amended, to read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

Section 104
Nonconforming Uses

104.8 AFTER NOTICE AND HEARING, THE ZONING COMMISSIONER MAY TERMINATE A NONCONFORMING USE AND REQUIRE THE USE TO REVERT TO A USE ALLOWED UNDER THE EXISTING ZONING CLASSIFICATION IF THE HEARING OFFICER HAS PREVIOUSLY DETERMINED, AFTER A CODE ENFORCEMENT HEARING UNDER ARTICLE 3, TITLE 6 OF THE CODE:

A. THAT THE OWNER, TENANT OR ENTITY HAVING CONTROL OF THE LAND OR USE IS IN VIOLATION OF THE COUNTY CODE, AS DEFINED IN ARTICLE 3, AND THAT THE VIOLATION IS CONTINUING; OR

B. THAT THE OWNER, TENANT OR ENTITY HAVING CONTROL OF THE LAND OR USE IS IN VIOLATION OF THE COUNTY CODE FOR THE SAME OFFENSE ON MULTIPLE OCCASIONS.

SECTION 2. AND BE IT FURTHER ENACTED, that this Act, having been passed by the affirmative vote of five members of the County Council, shall take effect on September 8, 2006.

b10506.wpd

2004 COMPREHENSIVE ZONING MAP PROCESS APPLICATION

This form and the required materials must be presented in person

Baltimore County Office of Planning
401 Bosley Avenue, Suite 406
Towson Maryland 21204

Ph: 410-887-3480
www.baltimorecountyonline.info

OFFICE USE ONLY

Issue No. Z-058
Council District 2
Fee (nonrefundable) 625
Received on 10/15/03
Receipt No. 28890
Planner Stitel
Time Required for Filing

APPLICANT INFORMATION

William Edward Long
1. Name

2. Organization (if applicable)

10911 Falls Road
3. Mailing Address

Lutherville, MD 21093
City, State, Zip Code

410-296-3387
4. Day Time Phone

big.bill@comcast.net
5. E Mail Address

6. Attorney or Representative ** (see note below)

Firm Name (if applicable)

410-296-3387
Business Phone

Business E Mail Address

PROPERTY INFORMATION

William Edward Long
7. Property Owner's Name

10911 Falls Road
8. Property Street Address

.97 + .67 = 1.64
9. Total Acreage of Property

950 S of Seminary Ave.
10. Distance to nearest street/intersection (give name)

0220-00-011831
11. Property Tax Number (12 Digits)

60 / 825
12. Tax Map Number / Parcel Number

0220-00-011832
Property Tax Number (attach additional parcels' information)

60 / 826
Tax Map Number / Parcel Number (attach additional)

08 19 03 68 00
13. Adjacent Property Tax Number(s) *
* (Attach additional sheets as needed)

60/64, P60 P61, P853, 63, 827
Adjacent Property Tax Map Number/Parcel Number

RECLASSIFICATION INFORMATION

.97 + .67 = 1.64
14. Total Acreage of land requested for rezoning

BM
15. Zoning history (issue/case no., year, type)

RC5, 1.64
16. Existing zoning (acres per zone)

1.64
17. Requested zoning (acres per zone)

Commercial
18. Existing use of parcel

Commercial
19. Proposed use of parcel

THE INFORMATION SHOWN ON THIS FORM IS ACCURATE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

I UNDERSTAND THAT UPON SUBMISSION OF THIS REQUEST, IT CAN NOT BE WITHDRAWN FOR ANY REASON.

(SIGNATURE) 15 OCT 03 Date

OWNER ACKNOWLEDGEMENT: Are you the owner of the property? No____ Yes ✓ If you are the owner, review and sign below.

1. **I hereby grant permission to Baltimore County for any required inspections of my property in regard to this subject-zoning request.**
2. **I hereby acknowledge that if any rezoning occurs, a change in the property tax assessment and /or transfer taxes may result for which the property owner would be responsible. Further, I understand that if this zoning request is granted, it does not guarantee the issuance of plan approval or building permit. At the time of development processing, all county, state, and federal requirements in effect at that time must be satisfied.**
3. **I hereby acknowledge that the County Council may apply any zoning classification on the subject property upon adoption of the comprehensive zoning maps.**

William Edward Long		15 OCT 03
Owner's Name (Please Print)	Signature	Date
Owner's Name (Please Print)	Signature	Date

** If your representation can be considered a lobbying effort, you may be required to register with the Baltimore County Council or the Baltimore County Ethics Commission (Section 28-161(9)b, Baltimore County Code)

BALTIMORE COUNTY
EXHIBIT NO. 10

B714555NR

EXHIBITS
—
PHOTOS
—
TRANSCRIPT

20070205 "A"
supplemental

(5)

Verified
KCS

~~Petitioners~~ Appellants

Exh 1A Bldg - Bldg Permit - 1946

✓1B " 7/8/1957

✓1C written bill of services

Petitioner 1

NEW BUILDING PERMIT

No. 5050

COUNTY COMMISSIONERS OF BALTIMORE COUNTY

DEPARTMENT OF PUBLIC WORKS

Office of the Buildings Engineer

District 5

Date Dec. 13, 1946

This New Building Permit Is Hereby Granted To

Maurice L. Long, Falls Rd. Lutherville, Md.

(Applicant)

To erect the following building:

Location E.S. Falls Rd. 500' N. Valley Rd.

Use of Building Commercial body building and repairs

Size of Building: Front 60 ft. Depth 40 ft. Height 12 ft.

Setback of Building: Front 150 ft.; Side Setbacks 120 and 120 ft. Corner lot ft. from side street.

Character of Construction Conc. found., cinder block walls, asphalt shingle roof

Issued By The Buildings Engineer

Per

Fee Paid $7.25

Date Dec. 13, 1946

This Permit shall be kept on the premises open to public inspection during the prosecution of the work and until completion of same. Upon completion, application shall be made to the Buildings Engineer for a Certificate of Occupancy.

Appellants Ex #1 A.

DPW—185

NEW BUILDING PERMIT

BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS
BUREAU OF PUBLIC SERVICES
Office of the Buildings Engineer
COUNTY OFFICE BUILDING, TOWSON 4, MARYLAND

No. 47532
District 8
Date July 8, 1957

This New Building Permit Is Hereby Granted To

SUBDIVISION

Maurice L. Long
(Applicant)

LOT No.

Falls Road,
(Address)

BLOCK

Lutherville, Md.

SECTION

PLAT No.

To erect the following building.

Location E/S Falls Rd. 1000' N. Jopna Rd.

Use of Building Carpenter, Repair & Paint Shop Addition

Size of Building: Front 25' 12" ft. Depth 48' 11" ft. Height 12' 8" ft.

Setback of Building: Front 130' ft.; Side Setbacks 250' and 180' ft. Corner lot ft. from side street

Character of Construction Conc. Conc. Conc. Blk. Built-up

This Permit does not authorize the performance of any work beyond the property lines of the lot for which issued. (Special permit must be obtained from the Highways Dept. to install sidewalks or remove curb. Planting of trees, hedges, shrubbery, erecting walls, fences, etc., is prohibited in the Right-of-Way adjacent to the lot.

Issued By The Buildings Engineer

Charles E. Wheeler

CHARLES E. WHEELER, Chief, Bureau of Public Services

Fee Paid $ 10.00

This Permit shall be kept on the premises open to public inspection during the prosecution of the work and until completion of same. LIMITATION. After a new building permit is issued, if the operation or work authorized and approved thereunder is not commenced within six (6) months after the issue, or if, after commencement of the operation or work, the operation or work is suspended or discontinued for a period of one year, then, in either case, the said permit shall be null and void, and no operations or work shall be again commenced unless and until another proper permit shall have been issued for such work.

Appellants
1B.

OFFICE: VALLEY 5-3903 HOME: VALLEY 3-4826

AUGUSTINE J. MULLER & ASSOCIATES

Registered Professional Engineers and Land Surveyors
Zoning Consultants

201 Courtland Avenue, Towson 4, Maryland

July 9, 1957

Mr. [illegible]
Falls Road, Lutherville, Md

For Services - Zoning and Building
Permit - Shop Addition, Falls Road. $ 200.00
Building Permit 10.00
Prints 2.00
$ 212.00

Received Payment

Paid July 19, '57
Check # 2020

Appellants
1 C.

Case No.: 07-205 SPH

Exhibit Sheet

	Petitioner/Developer	Protestant
No. 1	PRELIMINARY MOTION EXHIBITS 1 5 A & B	Permits & Dev. Mangmt Correspondence 4/10/06 - Denial of Protestants Request
No. 2	PRELIMINARY MOTION EXHIBIT 16 - Publication	Collectively # 2 A-2 pcs B-2 pcs. Invitations to County for site visit.
No. 3	County Exhibit 2 [objected to as to other entities]	Notes of Wm Long ON Zoning History (ID only)
No. 4	[County Exhibits 3 A+B]	
No. 5	BALTO. COUNTY INDEX OF EXHIBITS	
No. 6	Collectively - individual Citations	
No. 7	BRD of Appeals Remand.	
No. 8	Response to Protest #2	
No. 9	105-06 Subsequent Violations	A - 2 CDs Film Clips B - Photos 10/06 11/06
No. 10	Response & Application for Rezoning. (ID only)	by Atty. Robert Wm. 1/5/07
No. 11		
No. 12		

See Pg. 11 of Exh. 5

Department of Permits and Development Management

Development Processing
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

April 10, 2006

PROTESTANT'S
EXHIBIT NO. 1

Mr. Carroll E. Long
1619 Alston Road
Baltimore, Maryland 21204
And
Steve and JoAnne Galasso
10905-11 Falls Road
Lutherville, Maryland 21093

Re: Petition for SPH 06-097-SPH
at 10905 - 11 Falls Road Automotive Emporium Inc.
Location: N/east side Falls Road between Greenspring Valley Road and Seminary Avenue
District 8 Councilmatic 3, Violations 02-0020, 05-0457, 05-08457

Dear Messer's Long and Galasso:

This letter is written as a response to your calls to this office last week, to inquire the status of the above referenced Special Hearing petition. I have inquired with the Director and Code Enforcement and as you are no doubt aware, the enforcement office has 3 open violation cases on this property, and the petition cannot be processed for the following reasons:

1. The agreement and Consent Judgment in the Circuit Court dated. 7/8/05.

2. Follow-up inspections of the property, have not been allowed and,

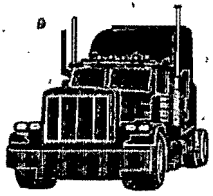
3. Section 33-4-114 (c) BCC which prevents Baltimore County from processing plans when there are open violations on the property.

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me at 410-887-3391 or Jim Thompson at 410-887-8099..

Sincerely,

W. Carl Richards
Supervisor
Zoning Review

WCR/rjc
c: files

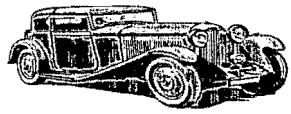


VALLEY SERVICES COMPANY

COLLISION TRUCK REPAIR

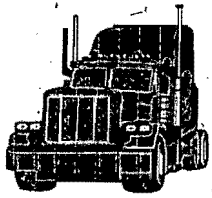
* FREE ESTIMATES -
* LIFETIME WARRANTY
* GUARANTEED PAINT MATCH
* UNIBODY & FRAME STRAIGHTENING
* OVER 150 YEARS EXPERIENCE
* FOREIGN & DOMESTIC
* ALL INSURANCE WORK WELCOME

10907 FALLS ROAD
LUTHERVILLE, MD 21093
(1/2 MILE NORTH OF GREENSPRING STATION)
410-296-5025



ANTIQUE & CLASSIC CAR RESTORATION SPECIALIST

LET US SAVE YOU 10% TO 20% ON YOUR DEDUCTIBLE (SEE MANAGER FOR DETAILS)



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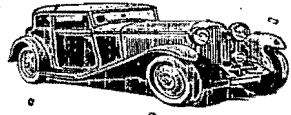
410-296-5025



ANTIQUE & CLASSIC CAR RESTORATION SPECIALIST

LET US SAVE YOU 10% TO 20% ON YOUR DEDUCTIBLE (SEE MANAGER FOR DETAILS)

Law Office of Donna M. B. King
309 W. Pennsylvania Ave.
Towson, MD 21204

8 JAN 07

William E. Long
1619 Alston Rd.
Towson, MD 21204

PROTESTANT'S
EXHIBIT NO. 3

Re: Zoning chain of events and documents

Dear Ms. King,

As to the zoning of the property, the answer can be found in the records at the Zoning Office in the Baltimore County Office Building, the Baltimore County Office of Planning in the County Courts Building, and at the Towson Branch of the Baltimore County Public Library who maintain the past issues of The Jeffersonian, Baltimore County's paper of record.

There is one thing I cannot find however, any documents that changed the zoning of the property from "E" Commercial later renamed "BL" to RC-5 or any other residential zoning. I have requested on numerous occasions for these documents and have had no response. Under the "Freedom of Information Act" I was permitted to review all files in regards to this property and it was not there. Mr. Winsom said "The Long's contend the property is BL zone and that a zoning mistake is the cause of the residential zone that now exists on the property". After reviewing all the available documents, they indicate no change from the BL zoning so residential zone does not exist on the property.

I went to the Office of the County Executive where I was introduced his Constituent Service Representative, Hanna Sacks. Zoning says it is the use of the property, not the user. Hanna Sacks told me all the problems would end if I remove my tenant, meaning that it is the user not the use. This is in conflict with the zoning codes.

Since the original zoning change from "A" Residence to "E" Commercial was signed by the zoning commissioner, I went to the zoning commissioner's office and was informed that he no longer has the authority to enforce this or have it applied to the current map. I was also informed that that power now rests with the Baltimore County Council. In the 2004 CZMP I applied for what ever zoning is required to allow the business to continue. Since they were not sure if BL or BM zoning was required, they applied for BM. I attended the County Council's vote on the 2004 CZMP. The property in question was not mentioned for change since the committee recommended that the zoning not be changed. At the end of the session I asked Councilman Kevin Kamenetz, where this leaves the property. His response was "Since the use pre-dates zoning, the use may continue."

If you look at the current zoning maps, there is a new message in the margin, a disclaimer saying the information may not considered accurate. Previous maps did not say this and were considered gospel. If a records check had been performed, it would have shown that

NEW BUILDING PERMIT

No. 5050

COUNTY COMMISSIONERS OF BALTIMORE COUNTY

DEPARTMENT OF PUBLIC WORKS

Office of the Buildings Engineer

District 5

Date Dec. 13, 1946

This New Building Permit Is Hereby Granted To:

Maurice L. Long, Falls Rd. Lutherville, Md.

(Applicant)

To erect the following building:

Location: E.S. Falls Rd. 500' N. Valley Rd.

Use of Building: Commercial body building and repairs

Size of Building: Front 20 ft. Depth 40 ft. Height 12 ft.

Setback of Building: Front 150 ft. Side Setbacks 120 and 120 ft. Corner lot ft. from side street.

Character of Construction: Conc. found., cinder block walls, asphalt shingle roof

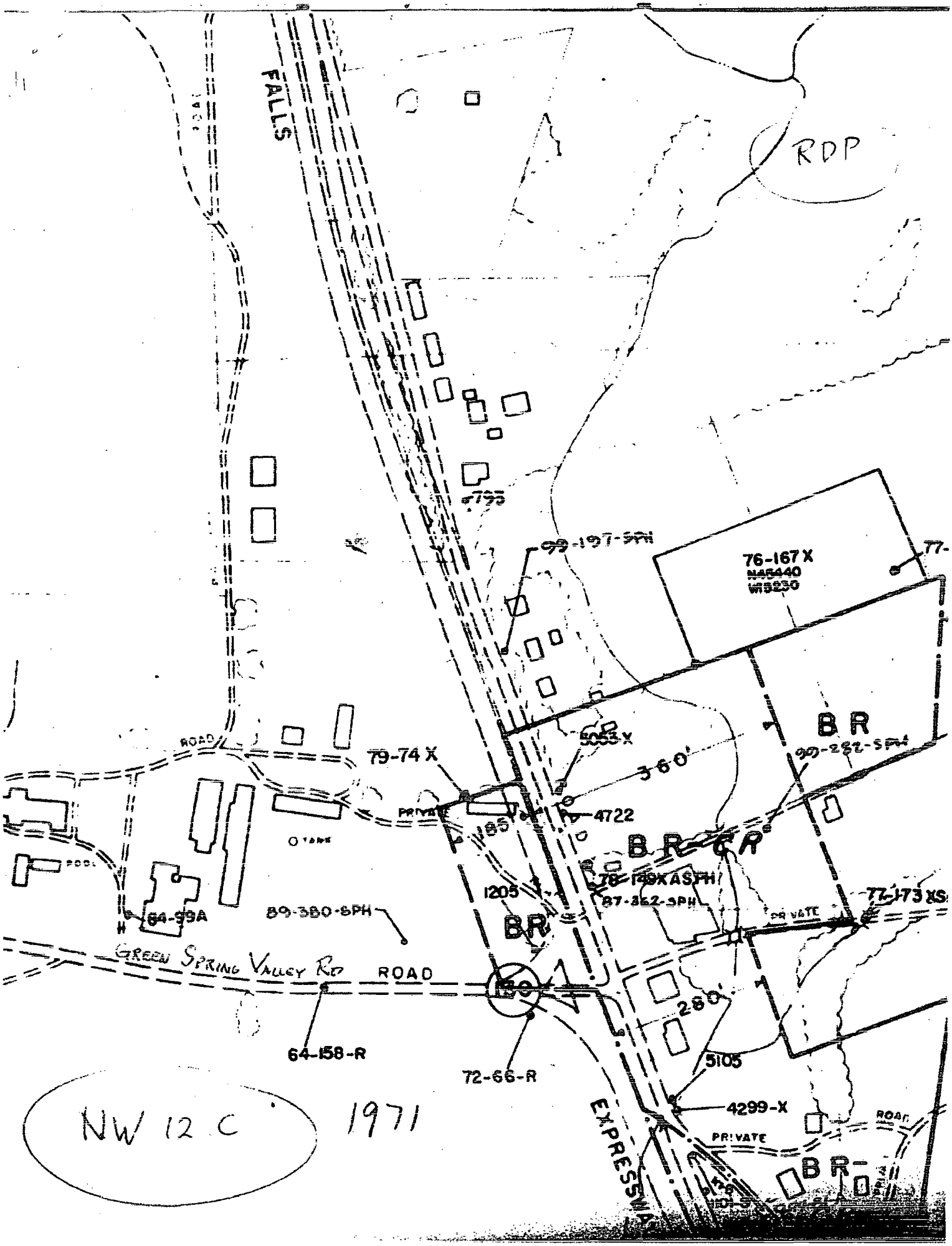
Issued By The Buildings Engineer

Per

Fee Paid $ 2.25

Date Dec. 13, 1946

This Permit shall be kept on the premises open to public inspection during the prosecution of the work and until completion of same. Upon completion, application shall be made to the Buildings Engineer for a Certificate of Occupancy.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serted in some newspaper printed and published in Baltimore County, once in each of three successive weeks before the said 20th day of January, 1947.

The report states the amount of sale to be $5,400.00.

JOHN W. BISHOP, Clerk.

True Copy—Test:

JOHN W. BISHOP, Clerk.

Dec. 27—Jan. 3-10-17.

NOTICE OF ZONING RECLASSIFICATION—8th DIST.

Pursuant to petition filed with the Zoning Commissioner of Baltimore County, for change or reclassification from an "A" Residence Zone to an "E" Commercial Zone of the property hereinafter described; the Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations, will hold a public hearing at the Zoning Office, in the Reckord Building, Towson, Baltimore County, Maryland,

On Monday, January 13, 1947,
At 2:30 o'clock P. M.

to determine whether or not the following mentioned and described property should be changed or reclassified as aforesaid, (if reclassified, for Approved commercial use), to wit:

All that parcel of land situate on east side of Falls Road, Brooklandville, in the 8th District of Baltimore County, beginning 990 feet north of Valley Road, thence north, on said side of Falls Road, 300 feet with a rectangular depth easterly of 150 feet.

By Order of

ZONING COMMISSIONER OF
BALTIMORE COUNTY.

Dec. 27—Jan. 3.

NOTICE OF ZONING RECLASSIFICATION—13th DIST.

Pursuant to petition filed with the Zoning Commissioner of Baltimore County, for change or reclassification from an "A" Residence Zone to an "E" Commercial Zone of the property here-

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Dec. 27—Ja

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IN THE C
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County C
County

William E. Long
Owner

(410) 296-3387
Baltimore

VALLEY SERVICES COMPANY

AUTO BODY PAINT AND REPAIR
10905 Falls Road
Lutherville, Maryland 21093-1895

William Hughey
Baltimore County Office of Planning
401 Bosley Avenue, Suite 406
Towson, Maryland 21204

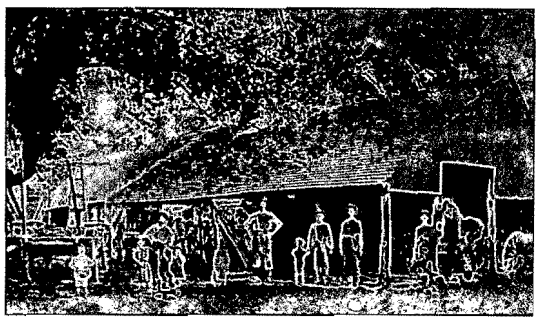
October 15, 2003

Re: Parcel Number 20-00-011831
Parcel Number 20-00-011832
Reason for request for rezoning

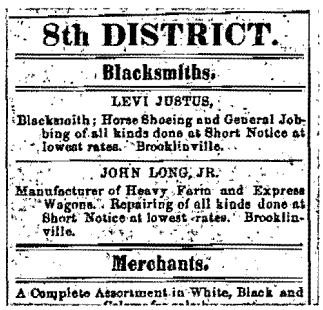
Dear Mr. Hughey,

It is my hope that the county will apply the appropriate zoning classification to allow a business to continue beyond the 154 years as it already has. Allow me to begin with a brief history of what has been done on this property to serve this community and surrounding areas.

Operations began back in 1849 with John Long, Jr., Wheelwright sharing a building with Levi Justice, Blacksmith. Levi left the area after a marital dispute leaving his part to John around 1900. The primary function was the construction of horse buggies and farm wagons.



A picture from around 1890



8th DISTRICT.

Blacksmiths.

LEVI JUSTUS,
Blacksmith; Horse Shoeing and General Jobbing of all kinds done at Short Notice at lowest rates. Brooklinville.

JOHN LONG, JR.
Manufacturer of Heavy Farm and Express Wagons. Repairing of all kinds done at Short Notice at lowest rates. Brooklinville.

Merchants.

A Complete Assortment in White, Black and

From an Atlas of Balto. Co. 1877

A new buggy from the paint shop

John's son, Maurice Long, while also a Wheelwright by trade, made the transition from horse drawn vehicles to motorized. As the early automobiles were useable as is, trucks on the other hand, only were cab and chassis, and many times not even a cab. That left a "blank canvas" for the wagon builders to construct bodies for what ever need someone could dream up. This is what was done here, normally in wood.

It was also a common practice when a cars body was severely damaged, the cars body was discarded and a wood station wagon body was built for it. Damaged cars thought to be total wrecks were then reborn as "Woodies".

OLDE JALOPY NEWS

Antique Motor Club
of
Greater Baltimore, Inc.

Antique Motor Club of Greater Baltimore, Inc.
10909 Falls Road
Lutherville, Maryland 21093-1895

FIRST CLASS MAIL

Documented timeline for the property

Property identification for this section of Falls Road

10901 This address refers to the properties of Robert Williams who purchased this portion of the Long estate from Albert Long in July of 1997. As the following predates his purchase, his name is not mentioned.

10901-11 This address refers to the properties of the Long estate. The commercial use of these properties has been continuous use since 1849 and continues to this day. The only exception is the house at 10901 Falls Road has no longer been used as rental apartments since 1996. Robert Williams, the current owner, was the last tenant.

10905-11 This address refers to remaining properties of the Long estate. The commercial use of these properties has been continuous since 1849 and continues to this day.

10913-21 This address refers to property currently owned by Emmet Vogel. The point of interest in this matter is the block building, which was the Blacksmith Shop of Levi Justice until 1947 when it became Stellers Auto Service. In 1949 it then became Marlow Florist Shop and continues to this day as a florist shop.

1945 Zoning map of Baltimore County #8-A
Shows the property, 10913-21 as "E" Commercial

Zoning Timeline

1946/1947 Petition for Zoning Re-Classification 0793

To the zoning commissioner of Baltimore County: We, Charles Shaneybrook, et al, legal owners of the property situate on east side of Falls Road, Brooklandville, in the 8th district of Balto. Co., beginning 990' north of Valley Road thence north, on said side of Falls Road, 300' with a rectangular depth easterly of 150', hereby petition the zoning status of the above described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an "A" Residence zone to an "E" Commercial zone.

Character of use for which above property is to be used: Approved Commercial Use.

We, agree to pay expenses of above re-classification, advertising, posting, etc., upon filing of this petition, and further agree to and are bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.
This was signed by Maurice L. Long, Helen L. Long, Charles Shaneybrook and Carrie Shaneybrook , Legal Owners address Brooklandville, MD

Ordered by the zoning commission or of Baltimore County, this 26th day he at December 1946 that the subject matter of this petition be advertised as required by the Zoning Law of Baltimore County in a newspaper of general circulation throughout Baltimore County that properly be posted and that the public hearing here on Bonnie and in the office of the zoning commission or of Baltimore County to the Reckord building in Towson Baltimore County, on the 13th day of January 1947 at 230 o'clock PM . Signed, Charles H. Doring, Zoning Commissioner of Baltimore County.
(**Note:** This was posted in the Jeffersonian, Friday, January 3, 1947-Page 15)

(Page 2 of 793 document)

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of the property being used commercially prior to the adoption of The Zoning Regulations on

NOTICE: DO NOT FILL IN ANY PART OF THIS PETITION, SEE THE SHORT LINE OR LINES CHECKED AT BOTTOM.

Petition for Zoning Re-Classification

0793

To The Zoning Commissioner of Baltimore County:

I, or we, Charles Shaneybrook et al, legal owner s of the property situate on east side of Falls Road, Brooklandville, in the 8th District of Balto. Co., beginning 990' north of Valley Road, thence north, on said side of Falls Road, 300' with a rectangular depth of 150',

hereby petition that the zoning status of the above described property be reclassified, pursuant to the Zoning Law of Baltimore County, from an "A" Residence zone to an "B" Commercial zone for the following reasons:

Character of use for which above property is to be used: Approved Commercial Use

Size and height of building: front ____ feet, depth ____ feet, height ____ feet.

Front and side set backs of building from street lines: front ____ feet, side ____ feet.

Property to be posted as prescribed by Zoning Regulations.

XXX we, agree to pay expenses of above re-classification, advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Clarence L. Long
Edna L. Long

Charles Shaneybrook
Bessie Shaneybrook
Legal Owner

Address: Brooklandville Md.

ORDERED by The Zoning Commissioner of Baltimore County, this 26th day of September, 19 61, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in a newspaper of general circulation through out Baltimore County, that property be posted, and that the public hearing be held in the office of the Zoning Commissioner of Baltimore County on the Richard Bible on Tuesday the 24th day of October, 19 61, at 2:00 o'clock P.M.

Zoning Commissioner of Baltimore County

William E. Long
10911 Falls Road
Lutherville, MD 21093-11895

13 APR 04

Director of Planning and Zoning
Baltimore County Office of Planning
401 Bosley Avenue, Suite 406
Towson, Maryland 21204

Re: Parcel Number 20-00-011831
Parcel Number 20-00-011832

Dear Sir,

These parcels of land were zoned "A" residence on the 1945 map.

A Petition for Zoning Reclassification, number 793, was approved and in January 1947 the zoning commissioner ordered the parcels zoned "E" commercial. The 1945 map was amended to show this by number only. The parcel lines were not drawn on the map.

The 1945 map was amended a second time in 195? to reflect the new coding system."E" commercial became "BL".

For reasons unknown, these parcels were not mentioned on the 1955 map.

The 1971 map shows the number 793 but no parcel lines.

For reasons unknown, both the number 793 and the parcel lines were not placed on the maps of 1971, 1976, 1980, 1984, 1988, 1992, 1996 or 2000.

The correction requested would be to amend the 2000 map by placing the parcel lines on it with the preapproved zoning of "BL".

These parcels are currently in use as a facility for the repair and painting of vehicles. This is the way it is now and the way it has been since 1849 with the only difference that manufacturing of vehicles and bodies stopped in the 1970s.

Thank you for consideration,

William E. Long

Courtesy sale

PHOTOGRAPHS
OF THE
ACTIVITY
AT
10905 THRU 10911 FALLS ROADS
TAKEN
BY
ROBERT L. WILLIAMS

STARTING ON JULY 1,2006 THUR JANUARY 5, 2007

IN THE MATTER OF:	*	BEFORE THE
DIRECTOR, PDM, BALTIMORE	*	COUNTY BOARD OF APPEALS
COUNTY, MARYLAND - Petitioner;	*	OF
STEVEN L. GALASSO, ET UX -	*	BALTIMORE COUNTY
Legal Owners	*	Case No.: 07-205-SPH
10905-10911 Falls Road	*	August 7, 2007
8th Election District	*	
2nd Councilmanic District	*	

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21205, at 10 a.m., August 7, 2007.

* * * * *

Reported by:

C.E. Peatt

EXHIBIT 1

IN RE: PETITION FOR SPECIAL HEARING
E/S Falls Road, 930' S
centerline of Seminary Avenue
8th Election District
3rd Councilmanic District
(10905-10911 Falls Road)

William E. & Carroll E. Long, *Legal Owners*
and Lutherville Collision &
Truck Center, *Lessee*
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 02-419-SPH
*
*

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by the legal owners of the subject property, William E. Long and Carroll E. Long, and the lessee of the site, Lutherville Collision & Truck Center The special hearing request involves property located at 10905-10911 Falls Road in the Lutherville area of Baltimore County. The special hearing request is to approve the continuation of a non-conforming use pursuant to Section 104 of the Baltimore County Zoning Regulations (B.C.Z.R.); to determine, in accordance with Section 405.A of the B.C.Z.R., the screening of the premises required by Section 405.A.1; to determine that the property is not considered residential and, therefore, Section 428 of the B.C.Z.R. does not apply; to determine that the property is not considered residential and, therefore, Section 431 of the B.C.Z.R. is not applicable; and for such other items relating to the non-conforming use as may be presented at the hearing.

Appearing at the hearing on behalf of the special hearing request were William, Carroll and June Long, appearing on behalf of the owners of the property, JoAnne and Steve Galasso, appearing on behalf of the lessee of the site, and J. Carroll Holzer, attorney at law, representing the Petitioners. Appearing in opposition to the Petitioners' request were several residents of the surrounding community, some of whom were represented by Robert D. Sellers, attorney at law. Mr. Jack Dillon, Executive Director of the Valleys Planning Council, also attended the hearing.

Testimony and evidence demonstrated that the property, which is the subject of this special hearing request, is located on the east side of Falls Road, midway between the intersections of Greenspring Valley Road and Seminary Avenue with Falls Road. The subject property is improved with a number of buildings, all of which are represented on Petitioners' Exhibits 1A and 1B, the site plans filed to accompany the special hearing request. The property also contains parking areas whereupon employee and customer vehicles are currently parked. At issue in this case is the present use of the subject property by Lutherville Collision & Truck Center. The property owner, by and through J. Carroll Holzer, their attorney, asserts that the use of the subject property by Lutherville Collision & Truck Center is an appropriate continuation of the longstanding commercial use, which has occurred on the property for more than 150 years. To the contrary, the citizens who attended the hearing and Mr. Robert Sellers, their attorney, argue that the property enjoys no such non-conforming use and that the use presently occurring on the subject property is a drastic enlargement or extension of what has occurred on the property in the past.

The testimony and evidence offered by the Petitioners demonstrated that the subject property has been in continuous ownership by the Long family since 1849 until the present time. The property was always used in some type of commercial fashion since 1849, when John Long, Jr., along with business associate, Levi Justice, opened a wheelwright and blacksmith business on the subject property. In fact, the family business was advertised in the 1877 edition of The Atlas of Baltimore County, Maryland as "a manufacturer of heavy farm and express wagons, repairing of all kinds done at short notice at lowest rates". The family business made the transition from horse-drawn vehicles to motorized vehicles as the internal combustion engine developed. The business, which operated from the property, transformed itself from a manufacturer of horse-drawn wagons to the manufacture and construction of large truck bodies.

Apparently, the early automobile makers developed and sold passenger automobiles in ready to use condition. However, larger trucks were manufactured only as cab and chassis, and sometimes manufactured without the cab itself. The Long family, at that time, specialized in the construction of wood frames and truck bodies which were built upon these blank chassis and cabs that were manufactured by the large auto and truck manufacturers.

At the time of the end of WW II, Mr. Carroll Long (the third generation of Long's to operate the family business), returned from service from WW II. At that time, the family business continued to specialize in the construction, manufacture, painting, and customizing of large truck bodies, which at that time had evolved to steel and aluminum over wood frames. The Long family developed a fine reputation as one of the best customizers of large tractor-trailer type of trucks, fire engines and fire equipment, government and military vehicles, and other similar large and big box trucks. Over the past few decades, the family has continued with the painting, service, and repair of these specialized vehicles, although in recent times the amount of vehicles serviced on the property has reduced significantly. The name of the business has also evolved over the years and the operation is known today as "Valleys Services Company".

It is also important to note the dates that certain buildings and structures were erected on the subject property. The Petitioners have submitted into evidence building permits dated December 13, 1946 and July 8, 1957. The 1946 permit approved the construction of a 36' x 46' x 13' building, set back approximately 150 feet from Falls Road. The 1957 permit allowed for an addition to the previously approved building. These buildings have been used by the Long family in connection with their painting, repair, construction and manufacturing of trucks and truck bodies.

Naturally, the property surrounding the buildings located on the site has been used for the parking and storage of vehicles awaiting service by the Long family. The testimony offered at

the hearing also demonstrated the areas whereupon these vehicles were stored, both before and after service was performed on them. The Long's operated their family business from the subject site for more than a century and a half without any problems or incidents with Baltimore County or their surrounding neighbors.

The purpose of the filing of the special hearing before me results from Mr. Steve Galasso, owner of the Lutherville Collision & Truck Center commencing the operation of his business from the subject property on or about September, 2001. Mr. Galasso owns and operates a very successful automobile collision, paint, and repair facility on Liberty Road. That enterprise continues to operate today. Mr. Galasso was interested in opening a second automobile, paint and repair facility at the property owned by the Long family. Mr. Galasso has been operating his business from the subject property for the past year. No new buildings have been constructed on the property in order to accommodate this new business. Mr. Galasso operates out of the existing service and paint shop, from which the Long's have operated their business for the past many decades. Testimony did reveal that Mr. Galasso installed a newer and more modern ventilation system on the paint shop to better exhaust paint fumes, which result from the painting of automobiles. In addition, Mr. Galasso has installed some privacy fencing around the area where the Long's routinely stored and kept vehicles awaiting service. Furthermore, a new sign has been erected on the property identifying the business on site as the Lutherville Collision & Truck Center. The position of the Petitioners is that Mr. Galasso's business is an intensification of the longstanding non-conforming use, which has existed on the property for over 150 years. They, therefore, ask that the special hearing be granted to allow Mr. Galasso to continue to operate the business known as "Lutherville Collision & Truck Center" from the subject site.

As stated previously, many residents of the surrounding community appeared and testified in opposition to the Petitioners' request. These residents indicated that they never had

any problem and did not take issue with the method and manner by which the Long's operated their business from the subject site. The Long's business was fairly subdued, involving only the occasional painting, repair, and modification of specialty vehicles. Most of the residents living around the Petitioner's property were not even aware that Mr. Long continued to do business on site. However, according to the testimony offered at the hearing, this all changed in September of 2001 when Mr. Galasso's business moved onto the property.

The testimony of the surrounding neighbors demonstrated that the noise and paint fumes emanating from the subject property, resulting from Mr. Galasso's business, have become unbearable. These neighbors also witnessed dumpsters which routinely overflow with trash as a result of the high volume of paint and repair work occurring on the site. The neighbors have also complained over the manner in which cars are parked on the property. Many residents testified that customers of the Lutherville Collision & Truck Center, along with employees, park their automobiles in the front yard of what use to be the old residence on the property in the grassy area along Falls Road. These cars are parked in a haphazard fashion, resulting in an eyesore to motorists who pass by on Falls Road. It also gives the appearance that the property is over commercialized and that the amount of business taken in by this Petitioner exceeds the capacity of the property given that there is not a sufficient amount of parking available to accommodate the many vehicles on site.

Neighbors also complained regarding the disruption of traffic flow along Falls Road at the entrance to the Petitioners' property. Falls Road at this location narrows to a two-lane highway and carries a tremendous volume of traffic, particularly during the peak rush hours. Damaged and disabled vehicles are delivered to the Petitioners' property by way of large rollback tow trucks, which at times come to a complete stop on Falls Road and back into the Petitioners' site. This, in the opinion of the surrounding residents, is disruptive and dangerous to

the flow of traffic in this area. According to the citizens, this type of activity was never noticed by the surrounding residents during the time the Long's operated their business on the property.

Some residents complained that the Petitioners' business operates into the late hours of the evening, which is disruptive to their quiet enjoyment of their properties. This too was not experienced when the Long's operated their business. In addition, the protestants argue that Mr. Galasso operates his business on areas of the property that were not historically used by the Long's and which are not properly part of the non-conforming portion of the business operated by the Long family.

It is clear, based upon the testimony and evidence offered at the hearing, that the subject property does in fact enjoy a legal non-conforming use for the business which has historically been owned and operated by the Long family. That is, the property owners may continue to operate the Valley Services Company from the subject site. That use has existed on the property since prior to 1945 and has continued uninterruptedly up until the present date. That non-conforming use comprises the painting and modification of large trucks and specialty vehicles such as ambulances, fire suppression equipment, large government and military vehicles, tractor cabs and other such similar vehicles. The business operated by the Long family was not the object of the Protestants' testimony. Furthermore, I find that the Long's business may continue to operate in the larger service building containing 4,842 sq. ft., as identified on the site plan. There was some question as to the time when this building was constructed and where a prior commercial zoning line may have existed. However, it was clear, based on the testimony and evidence presented, that this particular area of the Petitioners' property whereupon this building is situated was historically and traditionally used in furtherance of the Long's business. Therefore, the entire service building containing 4,842 sq. ft., along with the driveway and

parking areas in front of this building may continue to be used by the Valleys Services Company as outlined above.

The larger question in the case is whether Mr. Galasso may continue to operate the Lutherville Collision & Truck Center from the subject property under the non-conforming use established by the Long family. The Court of Special Appeals, in the case of McKemy v. Baltimore County, 39 Md. App. 257, 385 A.2d 96 (1978), established four factors which are to be considered in determining whether a particular activity is within the scope of a non-conforming use.

The first factor to consider is to what extent does the current use of the property reflect the nature and purpose of the original non-conforming use. In my judgment, based upon the testimony and evidence offered at the hearing, the current use of the property by Mr. Galasso does not reflect the nature and purpose of the original business use of the property by the Long family. The Long family's business was that of painting, repair and modification of large trucks and specialty vehicles. For the most part, it evolved into a very specialized business with a limited customer base. Furthermore, the Long's business serviced large vehicles on an infrequent basis. The business operated today by Mr. Galasso on the property is a high volume business servicing passenger automobiles and light trucks owned by the general public. Vehicles are parked about the property in a scattered and haphazard fashion. Cars are jockeyed about the property by employees and customers who are awaiting repair to their vehicles. Parking is occurring in areas of the property not previously used in that manner. On the other hand, the business operated by the Long family was orderly and very structured. The old photographs submitted into evidence and the testimony revealed that the Long's were very methodical in the operation of their business. Accordingly, the extent of the current use on the property does not reflect the nature and purpose or the manner in which the property was historically used.

The second factor to consider is whether the current use is merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature and kind. As stated previously, the use of the property today by Mr. Galasso constitutes a use different in character and nature than the use conducted by the Long family. The standard automobile and collision repair facility which is being operated today by Mr. Galasso is similar to many other types of facilities in Baltimore County and is different in character and nature than the specialized business operated by the Long family. Stated another way, the types of vehicles routinely worked upon by the Long's, such as fire engines and ambulances, military vehicles and large tractor trailers, are not the types of vehicles one would commonly find awaiting service at your typical automobile collision and repair facility. The Long's operated a facility which was highly specialized and only applied to a small segment of the automotive manufacturing community. Accordingly, the use conducted by Mr. Galasso's company is in fact different in character, nature, and kind than the historical use of the property. Lutherville Collision & Truck Center has failed to satisfy this second requirement.

The next factor to be considered is whether the current use has a substantially different effect upon the neighborhood. In my judgment, based upon the testimony and evidence offered at the hearing, the use by Mr. Galasso certainly has a substantially different effect on the surrounding neighborhood. Several examples of this were brought out at the hearing. The use of the property today by Mr. Galasso has a different visual effect upon the surrounding neighborhood. That is, the testimony revealed the overcrowding of the property with automobiles awaiting repair. There are also automobiles parked in a haphazard fashion on the grassy lawn of the subject property just off Falls Road. This visual effect is very different than what was traditionally associated with the Long's use of the property. Several citizens testified that there was little visual impact by virtue of the Long's use of the property. Several citizens

indicated that they were unaware that the Long's operated a truck repair facility from the subject site. However, since Mr. Galasso's business has occupied the property, the visual impact has been tremendous. Secondly, the protestants stated that the effects of noise and paint odors have increased drastically since the Lutherville Collision & Truck Center moved to the site. Again, several residents testified that the noise associated with Mr. Galasso's use of the property is far and above that which was historically associated with the Long family. The same was true regarding the odors associated with the automobile painting that is occurring on the property. This was not attributable to the Long's use of the property. Finally, the citizens testified that the impact on traffic along Falls Road, as a result of Mr. Galasso's use of the property, is very different than that associated with the Long's use of the property. Accordingly, based on the testimony offered at the hearing, I find that the current use by Lutherville Collision & Truck Center does have a substantially different effect upon the neighborhood than the traditional use of the property by the Long family.

The final factor to consider is whether the current use of the property is a drastic enlargement or extension of the original non-conforming use. The testimony offered at the hearing demonstrated that there has been a tremendous increase in activity on the subject property as a result of Mr. Galasso's business locating thereon. The number of employees has increased, the amount of vehicles coming and going to the subject site has increased, and the number of vehicles, both awaiting repair and those belonging to employees, have cluttered the property. Portions of the property are being used today which were not used previously. The paint fumes being disbursed into the air by Mr. Galasso's business have had an effect on adjacent property owners over and above that which was formerly associated with the Long's use of the property. Accordingly, I find that the current use is a drastic enlargement or extension of the

original non-conforming use and is not to be considered an intensification of the traditional and historic use of the property by the Long family.

After considering the testimony and evidence offered at the hearing, in light of the four-prong test as stated in McKemy, I find that the use of the subject property by Mr. Galasso and the Lutherville Collision & Truck Center is beyond the scope of the non-conforming use as established by the Long family on the subject site. Accordingly, it is not appropriate for the Lutherville Collision & Truck Center to continue to operate its business from the subject property. The business known as the "Valley Services Company", which has been operated by the Long family since 1849, is permitted to continue to operate from the subject site. However, Mr. Galasso's current use of the property is not to be considered an intensification of that historical non-conforming use and, therefore, must cease and desist immediately.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 7th day of November, 2002, that the Petitioners' Request for Special Hearing to approve the use of the subject property by the Lutherville Collision & Truck Center for the painting and repair of automobiles in the fashion demonstrated at the hearing before me, be and is hereby DENIED.

IT IS FURTHER ORDERED, that the remaining questions posed by the special hearing request filed by the Petitioners as they relate to the business known as Lutherville Collision & Truck Center , be and they are hereby DENIED.

IT IS FURTHER ORDERED, that the business known as the "Valley Services Company", which has been owned and operated by the Long family since 1849 until the present time, shall be permitted to continue to operate from the site as it has for the past 150 years. This is truly a non-conforming use as established by the testimony and evidence presented at the hearing. Therefore, the denial of the special hearing request as it pertains to the Lutherville

Collision & Truck Center shall not affect the ability of the Long family to continue to operate their business from this property as they have in the past.

IT IS FURTHER ORDERED that any appeal of this decision must be made within thirty (30) days of the date of this Order.

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

EXHIBIT 2

LW

02-0620

IN RE: PETITION FOR SPECIAL HEARING E/S Falls Road, 930' S centerline of Seminary Avenue 8th Election District 3rd Councilmanic District (10905-10911 Falls Road) William E. & Carroll E. Long, *Legal Owners* **and** Lutherville Collision & Truck Center, *Lessee* *Petitioners*	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 02-419-SPH

* * * * * * * * * * *

ORDER ON MOTION FOR RECONSIDERATION

WHEREAS, this matter came before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by the legal owners of the subject property, William E. Long and Carroll E. Long, and also the Lutherville Collision & Truck Center, the tenant of the site. The purpose of the special hearing was to approve a service garage use on the subject property as a nonconforming use. That particular request was granted in part by my Order dated November 7, 2002.

Thereafter, on November 27, 2002, Mr. Carroll Holzer filed on behalf of his clients a motion for reconsideration requesting that the owners of the property, William E. Long and Carroll E. Long, be permitted to repair and paint automobiles in conjunction with the approval granted to them to repair, paint and customize trucks and specialty vehicles. Submitted along with the motion for reconsideration were photographs of automobiles that were repaired on the property by the Long's in the past. Also submitted were two affidavits, one of which was signed by William E. Long and the other by Carroll E. Long.

After the submittal of the motion for reconsideration, Mr. Robert Sellers, attorney for the protestants in the case, filed a response which was received in this office on December 27, 2002.

It should be noted that an extension of time was granted to Mr. Sellers regarding the response filed by his office.

After considering the motion for reconsideration and the response filed by Mr. Sellers, I find it is appropriate to modify my Order dated November 7, 2002 in an extremely limited fashion. The testimony presented at the hearing and the photographs submitted therein did demonstrate that the owners of the property, William and Carroll Long, on a very limited basis, did perform painting and customizing work to antique and classic vehicles. The restoration of an antique or classic vehicle shall be permitted to continue to occur on the property by the Valley Services Company. This shall not in any way be interpreted to permit the repair and painting of the average passenger vehicle as was taking place on the property by the Lutherville Collision & Truck Center.

Therefore, I believe it is appropriate to expand upon my original approval that was granted to the Long family, to allow them, in addition to the painting and modification of large trucks and specialty vehicles such as ambulances, fire suppression equipment, large government and military vehicles, tractor cabs and other such similar vehicles, to include the painting and repair of classic and antique automobiles only. This expansion on my previous approval shall in no way be interpreted to permit the repair and painting of the average automobile by anyone on the property.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 7th day of January, 2003, that the Motion for Reconsideration be GRANTED, to allow the Long family and the Valley Services Company to also repair and paint antique and classic automobiles on the subject property in addition to the approval previously granted to them in my Order dated November 7, 2002.

IT IS FURTHER ORDERED, that all other findings made in my previous order shall remain in full force and effect.

IT IS FURTHER ORDERED that any appeal of this decision must be made within thirty (30) days of the date of this Order.

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

EXHIBIT 3

TIMOTHY KOTROCO, et al. Plaintiffs	*	IN THE
	*	CIRCUIT COURT
v.	*	FOR
STEVEN GALASSO, et al. Defendants	*	BALTIMORE COUNTY
	*	Case No. 03-C-04-6137

* * * * * * * * * * * * *

ORDER

The above captioned case came before this Court for a contempt hearing on December 14, 2005. At the close of the testimony, and after the arguments of counsel, this Court found both Steven Galasso and Automotive Emporium, Inc. in contempt of court. The matter was scheduled for disposition on February 16, 2006. After another full hearing, this Court ordered the Defendant to pay the sum of $100.00 per day for 146 days, or $14,600.00, payable within 60 days. This Court made no reference in its oral disposition of the contempt finding with respect to Automotive Emporium, Inc. The Court also failed to indicate specifically the identity of the payee of the fine. Plaintiffs, in their Motion for Reconsideration filed February 17, 2006, requested this Court to clarify (1) whether it intended to impose a fine or other punishment upon Automotive Emporium, Inc., and (2) to whom the fines are payable.

Having read and considered the Plaintiffs' Motion for Reconsideration and the Defendants' Opposition thereto, it is this 17th day of April 2006, by the Circuit Court for Baltimore County,

ORDERED that Defendants' Motion for Reconsideration be and hereby GRANTED; and it is further

ORDERED that both Steven Galasso and Automotive Emporium, Inc. are found in contempt and fined Fourteen Thousand Six Hundred Dollars ($14,600.00); and it is further

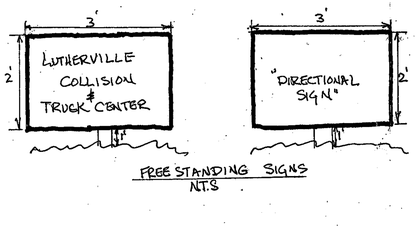
ORDERED that Steven Galasso and Automotive Emporium, Inc. be and hereby are jointly and severally liable for payment of the abovementioned fine; and it is further

ORDERED that remittance of the abovementioned fine shall be made on or before August 16, 2006, to Baltimore County; and it is further

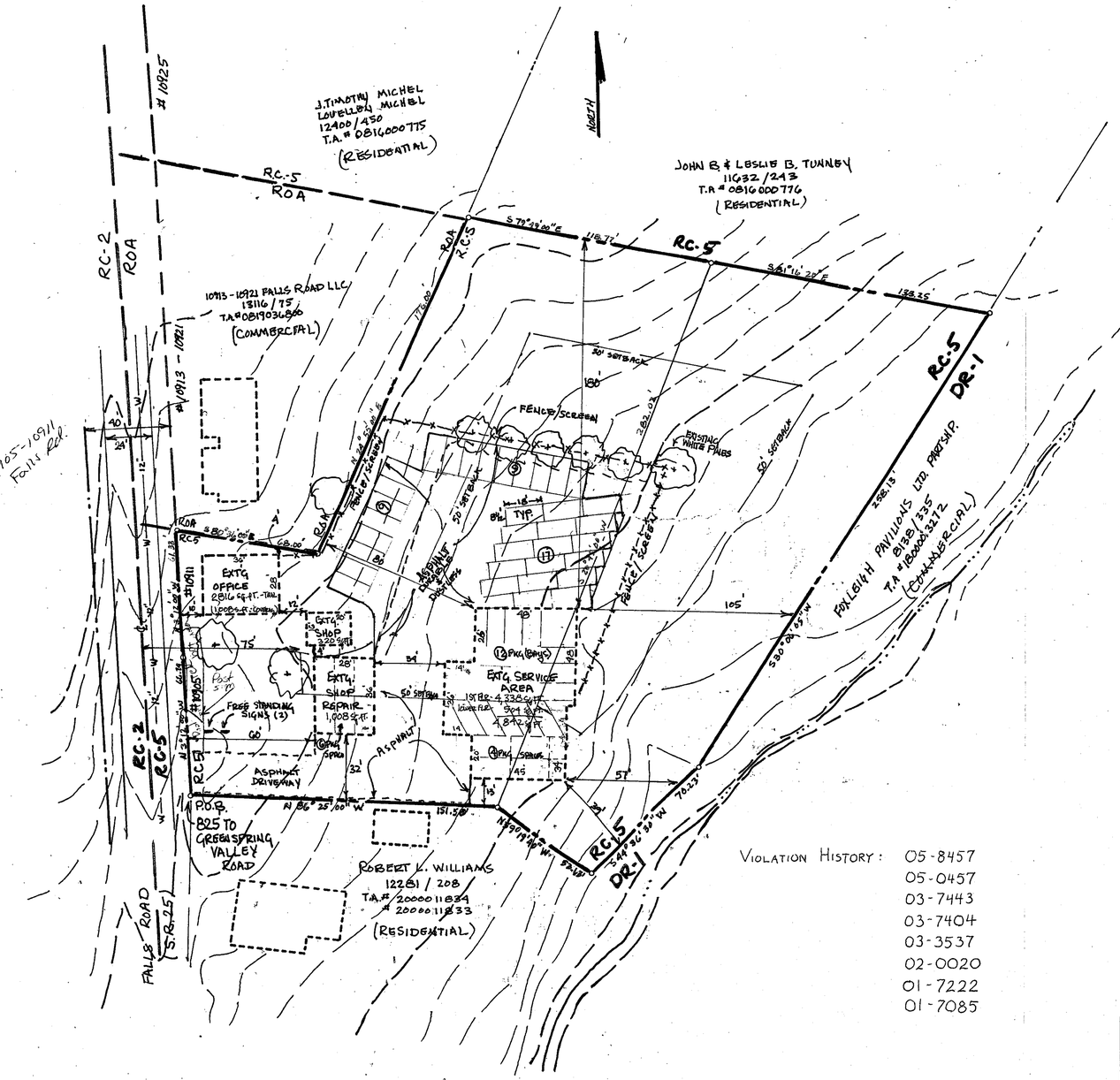
ORDERED that the abovementioned fine be redistributed to Falls Road Community Association in the amount of Three Thousand Eight Hundred Fifty-Eight Dollars and Nine Cents ($3,858.09), and to Valley Planning Council in the amount of Ten Thousand Seven Hundred Forty-One Dollars and Ninety-One Cents ($10,741.91) as reimbursement for legal fees and expenses incurred during the course of these proceedings.

JUDITH C. ENSOR
JUDGE

EXHIBIT 4



FREE STANDING SIGNS
NTS



Violation History:
05-8457
05-0457
03-7443
03-7404
03-3537
02-0020
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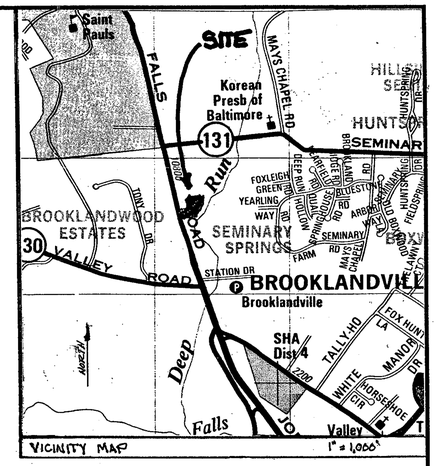
01-7085



GENERAL NOTES:

OWNERSHIP: WILLIAM E. LONG
10911 Falls Road
Lutherville, MD 21093

LESSEE / CONTRACT PURCHASER: STEVE GALASSO
Lutherville Collision & Truck Center
10905 Falls Road
Lutherville, MD 21093

PROPERTY ADDRESS: 10905 - 10911 Falls Road
Lutherville, MD 21093

CENSUS TRACT: 4087.01

COUNCIL DISTRICT: 3rd ELECTION DISTRICT: 8th

WATERSHED: 27 SUBSEWERSHED: 65

DEED: Liber15541 Folio 638; TAX ACCOUNT: 08-2000011832 & 08-2000011831

EXISTING ZONING: R.C. -5 Map: 060A3

EXISTING USE: Service Garage - automobile and truck Offices

PROPOSED USE: Continuation as a non-conforming use as offices and service garage in accordance with Section 104, BCZR.

SITE ANALYSIS:
GROSS AREA: 74,183.00 SQ. FT. +/- = 1.703 AC. +/-
NET AREA: 71,743.00 SQ. FT. +/- = 1.647 AC. +/-
FRONT SETBACK: 10'. (Minimum from- 75' from c/l of street & 50' from lot line)
SIDE YARD: 3' (Minimum sideyard - 50')
REAR YARD: 57' (Minimum rearyard - 50')
MAXIMUM HEIGHT: 35' (Will not be exceeded.)

COMMERCIAL PERMIT: NONE OF RECORD

ZONING HISTORY: 02-419-SPH

SITE IS SERVED BY PUBLIC WATER AND SANITARY SEWER.

THE SITE IS NOT IN THE CHESAPEAKE BAY CRITICAL AREA.

A STREAM, AND 100 YEAR FLOOD PLAIN EXISTS WITHIN 50 FEET OF THE PROPERTY, BUT NOT ON THE PROPERTY. NO STORM WATER MANAGEMENT SYSTEMS, OR STORM DRAINAGE SYSTEMS EXIST ON OR WITHIN 50 FEET OF THE PROPERTY.

A. O. S. IS NOT APPLICABLE.:

PARKING REQUIRED: AS REQUIRED FOR GENERAL OFFICES AND SERVICE GARAGE (3.3 SPACES/ 1,000 SQ.. FT.)
11,232.5 SQ. FT. OF GENERAL OFFICE AND SERVICE GARAGE =
THIRTY SEVEN (37) spaces and / or bays.

PARKING PROPOSED: SPACES PROVIDED FOR GENERAL OFFICES AND SERVICE GARAGE =
FIFTY SEVEN (57) spaces, service bays(interior) and outside storage

F.A.R. - NOT APPLICABLE IN R.C. - 5 - 15% COVERAGE
F.A.R. EXISTING 0.12 WITH 9% COVERAGE

HOURS OF OPERATION: 7 AM - 10 PM ; MAXIMUM # OF EMPLOYEES: 15; MAXIMUM LEVEL OF EMANATIONS: NORMAL OFFICE & SERVICE GARAGE LEVELS.

SCREENING AND LANDSCAPING SHALL BE PLANTED IN COMPLIANCE WITH THE BALTIMORE COUNTY LANDSCAPE MANUAL AS NEEDED TO SUPPLEMENT THE CURRENT LANDSCAPING OF THE SITE. AND IN ACCORDANCE WITH SECTION 405A OF THE BCZR.

THERE ARE NO MAJOR CHANGES IN GRADE PROPOSED.

EXISTING AND PROPOSED BUILDINGS SHALL MEET APPLICABLE BUILDING CODES AND FIRE CODES.

ZONING DESCRIPTION

Beginning at a point on the east side of Falls Road (State Route 25) which is 40 feet wide at the distance of 800 feet more or less north of the centerline of the nearest improved intersecting street, Greenspring Valley Road, which is 60 feet wide. Thence the following courses and distance.

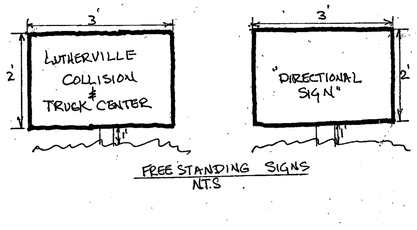
1.	North 03° 12' 00" West -	66.74'
2.	North 03° 12' 00" West -	61.33'
3.	South 80° 36' 00" East -	68.00'
4.	North 24° 55' 00" East -	176.00'
5.	South 79° 49' 00" East -	118.77'
6.	South 81° 16' 20" East -	133.25'
7.	South 30° 06' 05" West -	258.13'
8.	South 44° 36' 30" West -	70.23'
9.	North 59° 19' 40" West -	53.63'
10.	North 86° 25' 00" West -	151.58'

To the place of beginning as recorded in deed liber15541, folio 638. Also known as 10905 - 10911 Falls Road and located in the 8th Election District.

DRAWN BY:	DATE	REVISIONS	BY
DESIGN BY:			
CHECKED BY:			

PROJECT/DEVELOPMENT	10905 - 10911 FALLS ROAD LUTHERVILLE COLLISION
DRAWING TITLE:	PLAT TO ACCOMPANY PETITION: FOR SPECIAL HEARING TO DETERMINE WHETHER TO TERMINATE THE NON-CONFORMING USE AT 10905-10911 FALLS ROAD UNDER SECTION 104.8 OF BCZR
DATE:	11/3/06
SHEET	1 OF 1
COUNTY:	
ELECTION DIST:	
PROJECT #:	
SCALE:	1" = 30'

07-205-SPH



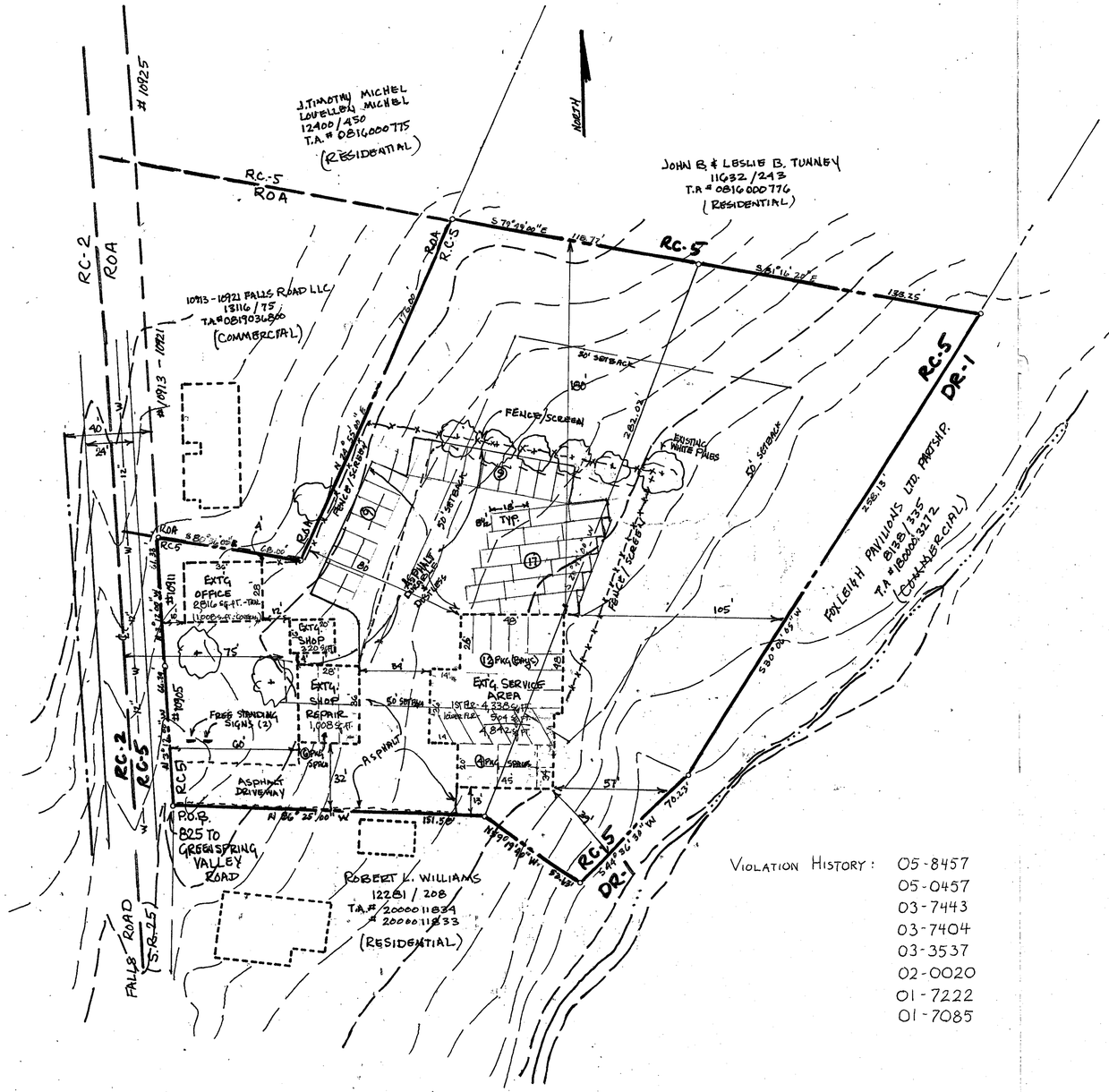
FREE STANDING SIGNS
N.T.S

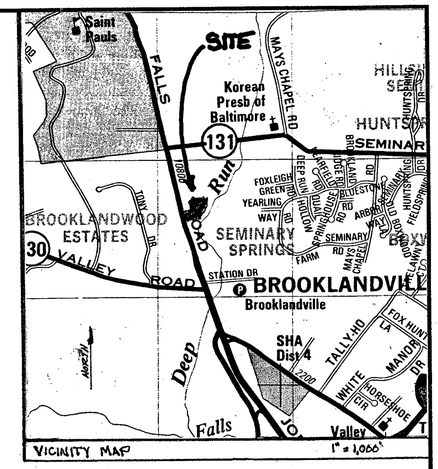
ZONING DESCRIPTION

Beginning at a point on the east side of Falls Road (State Route 25) which is 40 feet wide at the distance of 800 feet more or less north of the centerline of the nearest improved intersecting street, Greenspring Valley Road, which is 60 feet wide. Thence the following courses and distance.

1.	North 03° 12' 00" West -	66.74'
2.	North 03° 12' 00" West -	61.33'
3.	South 80° 36' 00" East -	68.00'
4.	North 24° 55' 00" East -	176.00'
5.	South 79° 49' 00" East -	118.77'
6.	South 81° 16' 20" East -	133.25'
7.	South 30° 06' 05" West -	258.13'
8.	South 44° 36' 30" West -	70.23'
9.	North 59° 19' 40" West -	53.63'
10.	North 86° 25' 00" West -	151.58'

To the place of beginning as recorded in deed liber15541, folio 638. Also known as 10905 - 10911 Falls Road and located in the 8th, Election District.





GENERAL NOTES:

OWNERSHIP: WILLIAM E. LONG
10911 Falls Road
Lutherville, MD 21093

LEASEE / CONTRACT PURCHASER: STEVE GALASSO
Lutherville Collision & Truck Center
10905 Falls Road
Lutherville, MD 21093

PROPERTY ADDRESS: 10905 - 10911 Falls Road
Lutherville, MD 21093

CENSUS TRACT: 4087.01

COUNCIL DISTRICT: 2nd — ELECTION DISTRICT: 8th

WATERSHED: 27 — SUBSEWERSHED: 65

DEED: Liber15541 Folio 638; — TAX ACCOUNT: 08-2000011832 & 08-2000011831

EXISTING ZONING: R.C. -5 — Map: 060A3

EXISTING USE: Service Garage - automobile and truck
Offices

PROPOSED USE: Continuation as a non-conforming use as offices and service garage in accordance with Section 104, BCZR.

SITE ANALYSIS:
GROSS AREA: 74,183.00 SQ. FT. +/- = 1.703 AC. +/-
NET AREA: 71,743.00 SQ. FT. +/- = 1.647 AC. +/-
FRONT SETBACK: 10'. (Minimum front- 75' from c/l of street & 50' from lot line)
SIDE YARD: 3' (Minimum sideyard - 50')
REAR YARD: 57' (Minimum rearyard - 50')
MAXIMUM HEIGHT: 35' (Will not be exceeded.)

COMMERCIAL PERMIT: NONE OF RECORD

ZONING HISTORY: 02-419-SPH

SITE IS SERVED BY PUBLIC WATER AND SANITARY SEWER.

THE SITE IS NOT IN THE CHESAPEAKE BAY CRITICAL AREA.

A STREAM, AND 100 YEAR FLOOD PLAIN EXISTS WITHIN 50 FEET OF THE PROPERTY, BUT NOT ON THE PROPERTY. NO STORM WATER MANAGEMENT SYSTEMS, OR STORM DRAINAGE SYSTEMS EXIST ON OR WITHIN 50 FEET OF THE PROPERTY.

A. O. S. IS NOT APPLICABLE.:

PARKING REQUIRED: AS REQUIRED FOR GENERAL OFFICES AND SERVICE GARAGE
(3.3 SPACES/ 1,000 SQ. FT.)
11,232.5 SQ. FT. OF GENERAL OFFICE AND SERVICE GARAGE =
THIRTY SEVEN (37) spaces and / or bays.

PARKING PROPOSED: SPACES PROVIDED FOR GENERAL OFFICES AND SERVICE GARAGE =
FIFTY SEVEN (57) spaces, service bays(interior) and outside storage

F.A.R. - NOT APPLICABLE IN R.C. - 5 - 15% COVERAGE
F.A.R. EXISTING 0.12 WITH 9% COVERAGE

HOURS OF OPERATION: 7 AM - 10 PM ; MAXIMUM # OF EMPLOYEES: 15; MAXIMUM LEVEL OF EMANATIONS: NORMAL OFFICE & SERVICE GARAGE LEVELS.

SCREENING AND LANDSCAPING SHALL BE PLANTED IN COMPLIANCE WITH THE BALTIMORE COUNTY LANDSCAPE MANUAL AS NEEDED TO SUPPLEMENT THE CURRENT LANDSCAPING OF THE SITE. AND IN ACCORDANCE WITH SECTION 405A OF THE BCZR.

THERE ARE NO MAJOR CHANGES IN GRADE PROPOSED.

EXISTING AND PROPOSED BUILDINGS SHALL MEET APPLICABLE BUILDING CODES AND FIRE CODES.

VIOLATION HISTORY:
05-8457
05-0457
03-7443
03-7404
03-3537
02-0020
01-7222
01-7085

DRAWN BY:	DATE	REVISIONS	BY
DESIGN BY:			
CHECKED BY:			

PROJECT/DEVELOPMENT: **10905 - 10911 FALLS ROAD**
LUTHERVILLE COLLISION

DRAWING TITLE: **PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING**
TO DETERMINE WHETHER TO TERMINATE THE NON-CONFORMING USE AT 10905-10911 FALLS ROAD UNDER SECTION 104.8 OF BCZR

DATE: 11/3/06
SHEET: 1 OF 1
COUNTY:
ELECTION DIST.:
PROJECT #:
SCALE: 1" = 30'

07-205-SPH