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IN THE MATTER OF
THE APPLICATION OF
SCHAEFER-TIMONIUM, LLC - LO /
PETITIONER FOR VARIANCE AND
PETITIONER FOR SPECIAL HEARING
ON THE PROPERTY KNOWN AS
(2312 YORK ROAD; 3 THELMA STREET
AND PARCEL A ON HIGHWAY STREET)

2ND ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT

- BEFORE THE
- * COUNTY BOARD OF APPEALS
- ' OF
- * BALTIMORE COUNTY
- * CASE NO. 07-220-SPHA

ORDER OF DISMISSAL

This matter comes to the Board of Appeals by way of an appeal filed by Leslie M. Pittler, Attorney for the Petitioner, Schaefer-Timonium, LLC, from a decision of the Deputy Zoning Commissioner dated March 6, 2007, in which the requested Motion for Reconsideration on the January 31, 2007 decision was denied.

WHEREAS, the Board is in receipt of a letter filed on April 20, 2009, Leslie M. Pittler, Attorney for the Petitioner, Schaefer-Timonium, LLC, indicating that this matter is now moot and can be dismissed (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Petitioner /Appellant requests that the appeal taken in this matter be withdrawn and dismissed as of April 20, 2009,

IT IS ORDERED this ______ day of ______, 2009 by the Board of Appeals of Baltimore County that the appeal taken in Case No. 07-220- SPHA be and the same is hereby **DISMISSED**.

BOARD OF APPEALS OF BALTIMORE COUNTY

Andrew M. Belt, Panel Chairmain

Edward W. Crizer, Jr.

Lawrence M. Stahl



County Board of Appeals of Baltimore County

JEFFERSON BUILDING SECOND FLOOR, SUITE 203 105 WEST CHESAPEAKE AVENUE TOWSON, MARYLAND, 21204 410-887-3180 FAX: 410-887-3182



May 22, 2009

Leslie M. Pittler, Esquire 25 Wandsworth Bridge Way Lutherville, MD 21093

RE: In the Matter of: Schaefer-Timonium, LLC-Legal Owner/Petitioner
Case No.: 07-220-SPHA

Dear Mr. Pittler:

Enclosed please find a copy of the Order of Dismissal issued this date by the Board of Appeals of Baltimore County in the above 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, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. 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,

Theresa R. Shelton Administrator

TRS/klc Enclosure

c:

William H. Schaefer, Jr./Schaefer-Timonium, LLC Kenneth J. Colbert, P.E./Colbert, Matz, Rosenfelt, Inc. Tim Wenzel

Louis W. Miller/Greater Timonium Community Council

Harold Barnes, President/West Timonium Heights Community Assoc.

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William J. Wiseman, III, Zoning-Commissioner
Michael Mohler, Deputy Director/Code Enforcement
Margaret Z. Ferguson, Code Enforcement Hearing Official

Arnold F. "Pat" Keller, Director/Planning
John E. Beverungen, County Attorney

heltonke

Leslie M Pittler P.A

Attorney at Law
25 Wandsworth Bridge Way
Lutherville, Maryland 21093

April 20, 2009

Telephone: 410-823-4455

Fax: 410-296-4461

County Board of Appeals of Baltimore County Jefferson Building Second Floor Suite 203 105 West Chesapeake Ave. Towson, Md. 21204 Attn: Sunny Cannington

> Re: In the Matter of Schaefer-Timonium, LLC Case Number 07-220-SPHA

Dear Ms. Cannington;

Pursuant to your letter of April 10, 2009 and my previous discussions with the staff of the Board, the above-captioned matter is most and the appeal before the Board may be dismissed.

Thank you for being in touch with me to remind me to send this letter.

Very truly yours

Leslie M. Pittler

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BALTIMURE COUNTY BOARD OF APPEALS



County Board of Appeals of Baltimore County

JEFFERSON BUILDING SECOND FLOOR, SUITE 203 105 WEST CHESAPEAKE AVENUE TOWSON, MARYLAND, 21204 410-887-3180 FAX: 410-887-3182

April 10, 2009

Leslie M. Pittler, Esquire 25 Wandsworth Bridge Way Lutherville, MD 21093

RE:

In the Matter of: Schaefer-Timonium, LLC

Case No.: 07-220-SPHA

Dear Mr. Pittler:

Our records indicate that we received a telephone call on January 26, 2009 requesting the status of the above referenced matter and indicating that a Notice of Withdrawal would be forthcoming. To date, we have not received a Notice of Withdrawal or any further contact.

Please forward the Notice of Withdrawal or indicate the current status of this matter so that we may update our file appropriately.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact this office.

Very truly yours,

Sunny Cannington Legal Secretary

cc: Office of People's Counsel

Leslie M Pittler P.A.

Attorney at Law
25 Wandsworh Bridge Way
Lutherville, Maryland 21093

April 2, 2007

Telephone: 410-823-4455

Fax: 410-296-4461

Baltimore County Board of Appeals 400 Washington Avenue Towson, Maryland 21204

RE: CASE NUMBER:07-220-SPHA 2312 YORK ROAD, 3 THELMA STREET, PARCEL A ON HIGHVIEW STREET

Dear Sir/Madam:

Please be advised that I am taking an appeal from the Baltimore County Deputy Zoning Commissioner's decision in the above-captioned case. The Deputy Zoning Commissioner first rendered his decision on the 31st day of January 2007; I then filed a timely MOTION FOR RECONSIDERATION, which was denied on the 6th of March 2007. I am thus filing this appeal within 30 days of the denial of the Motion. I am appealing on behalf of the Petitioner Schaefer-Timonium LLC, the legal owner and am appealing the entire decision

Very truly yours,

Leslie M. Pittler

Attorney for the Petitioner

Cc: Peoples Counsel

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3/6/07

IN RE: PETITIONS FOR SPECIAL HEARING

AND VARIANCE

W side of York Road, 25 feet N of

Highview Street

8th Election District

3rd Councilmanic District

(2312 York Road, 3 Thelma Street and Parcel A on Highview Street)

Schaefer-Timonium LLC

Legal Owner

BEFORE THE

* DEPUTY ZONING COMMISSIONER

* FOR

BALTIMORE COUNTY

*

* CASE NO. 07-220-SPHA

ORDER ON MOTION FOR RECONSIDERATION

This matter comes before this Deputy Zoning Commissioner as a Motion for Reconsideration filed by Leslie M. Pittler, Esquire, representing the legal owner of the subject property, Schaefer-Timonium LLC.

Original Case

The Petitioner originally filed a Petition for Special Hearing relief requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R) to approve business parking in a residential zone, pursuant to Section 409.8.B of the Baltimore County Zoning Regulations (B.C.Z.R.), including the storage of unlicensed passenger motor vehicles (not for sale), and to amend the plan approved and the Order in Case No. 00-215-X. The Petitioner also filed a Petition for Variance to permit a buffer of 6 feet in lieu of the minimum required 50 feet and to permit a parking lot setback of 6 feet in lieu of the required 75, and to Section 409.4 to permit parking spaces for stored motor vehicles without direct access to a drive aisle in lieu of the required direct access to a drive aisle.

Motion for Reconsideration

On February 20, 2007, Counsel filed a timely Motion for Reconsideration of this Deputy Zoning Commissioner's January 31, 2007 Order denying the Petitioners' requests. The Motion

pointed out that Code Enforcement matters cannot be used as a basis for decisions in this matter yet extensive discussion of Code Enforcement and testimony by the Protestants regarding Code Enforcement were allowed at the hearing. In addition he noted that the subject lot could be accessed via the Petitioner's used car lot and not accessed via Thelma Avenue, Mr. Miller's testimony was irrelevant to the issues of the case and Mr. Wenzel's testimony unsubstantiated. He noted that previous decisions of this Commission granted similar relief in Case No. 02-235-SPH, the lack of evidence to support the subject Order regarding Code Enforcement or that the site could be used residentially. Finally he objects to the reference in the Order regarding Case No. 06-109-SPH which has not yet been issued by the Board of Appeals.

He requests the hearing be reconvened to address the above.

Finds of Fact and Conclusions of Law

In regard to the many references to Code Enforcement evidence objected to by Mr. Pittler, I can only repeat once again our Commission's policy that zoning hearings are neutral in regard to Code Enforcement. The fact that a zoning violation is issued is simply ignored in this zoning case. This means that the Petitioner cannot use the fact that a use may have been made of a property to set a precedent in order to allow it to continue. The reason for this is that this condition is clearly self-imposed and as such cannot be a basis for the hardship or practical difficulty required by Section 307 of the B.C.Z.R. Conversely, the fact that something may have been done which could violate the law is not held against the Petitioner as some sort of an additional punishment. Zoning enforcement is conducted by the Department of Permits and Development Management, which has the authority to impose fines and other penalties for violation of law. This is not the province of this office.

While this Commission is neutral to Code Enforcement matters as described, this does not mean that Petitioner's use of property is irrelevant as to whether or not the requested relief may adversely impact the community. As one example, Mr. Wenzel, who lives next to the subject site testified that the Petitioner employed car carriers into the early morning hours and tow trucks 24 hours a day to deliver vehicles to the site disturbing his rest. In my judgment his testimony was credible and uncontroverted. Such activity is directly relevant to the Petitioner's use of the property which the Petition sought to have this Commission approve.

Mr. Pittler cites Case No. 02-235-SPH as an example that this Commission has approved use of parking residential zones for parking of inventory vehicles for a car dealership. I note in reviewing the decision in Case 02-235-SPH that the matter was not contested, and therefore the Zoning Commissioner had no evidence on which to judge any adverse impact on the community. In the case at bar, the matter was highly contested with relevant substantial evidence presented by the protestants as to the adverse impact on the community. Although the Petitioner presented an excellent case, on balance I find the protestant's evidence more persuasive than that presented by the Petitioner.

Finally while I greatly respect the wisdom of the Zoning Commissioner's order in the above case, each case has to be judged on a case by case basis. I found in the Order and find once again that the proposed use had none of the redeeming characteristics one would hope to find in such requests. There was no evidence that the proposed use was accessory to the principal use, or that the Petitioner's used car lot lacked parking, or that the proposed use would provide additional buffering for the residential uses from the used car lot or the proposed use would benefit customers or employees of the Petitioner. In my view the request was simply a means of expanding the Petitioner's business operations into the adjacent residential zone.

For the reasons above and those cited in the January 31, 2007 Order, I find there is no reason to reconvene the hearing. The case was fully litigated at the original hearing. Therefore I will deny the Petitioner's Motion for Reconsideration.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this _____ day of March, 2007, that the Petitioners' request for Reconsideration is hereby DENIED: and

IT IS FURTHER ORDERED that all of the terms and conditions of the Order issued on January 31, 2007 shall remain in full force and effect.

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

OMN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM:pz



JAMES T. SMITH, JR. County Executive

WILLIAM J. WISEMAN III

Zoning Commissioner

March 6, 2007

LESLIE M. PITTLER, ESQUIRE 25 WANDSWORTH BRIDGE WAY LUTHERVILLE MD 21093

Re: Petition for Special Hearing and Variance
Order on Motion for Reconsideration
Case No. 07-220-SPHA
Property: 2312 York Road, 3 Thelma Street and Parcel A on Highview Street

Dear Mr. Pittler:

Enclosed please find the decision rendered in the above-captioned case. The petition for Special Hearing and Variance have been denied in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy

Deputy Zoning Commissioner

John V. Menthy

for Baltimore County

JVM:pz Enclosure

c: Kenneth Colbert, Colbert Matz Rosenfelt, Inc., 2835 Smith Avenue, Suite G, Baltimore MD 21209 William Schaefer, Schaefer-Timonium LLC, 2085 York Road, Timonium MD 21093 Tim Wenzel, 5 Thelma Street, Lutherville MD 21093 Louis Miller, 44 East Timonium Road, Timonium MD 21093 Harold Barnes, 5 West Main Blvd., Timonium MD 21093

Leslie M Pittler P.A.

Attorney at Law
25 Wandswoth Bridge Way
Lutherville, Maryland 21093

February 20, 2007

アー スク 2007 Telephone: 410-823-4455

John V. Murphy, Esquire Deputy Zoning Commissioner County Courts Building Towson, Maryland 21204 [Hand Delivered]

Re: Case Number 07-220-SPHA

Dear Mr. Murphy:

Please be advised that this letter constitutes a Motion for Reconsideration for the above cited case, your decision having been rendered on the 31st day of JANUARY, 2007, said Motion is hereby timely filed...

The grounds for said Motion are as follows

A: It is clear that the Deputy Zoning Commissioner (DZC), cannot rely upon or use a Code Enforcement case as a basis in any way for his decision, yet a Code Enforcement case is cited by the DZC and an entire paragraph is devoted to that case, and the DZC allowed Mr. Miller to testify at length on this matter and thus it seems clear that the Code Enforcement case was taken into consideration by the DZC. The DZC states on the 3rd Page of his opinion:" It should be noted for the record that the fact that a zoning violation is issued is simply ignored in this zoning case."

B: The DZC stated on Page 4 of his opinion that the lot in question would be accessed from Thelma, when in fact Counsel indicated that Petitioner would be willing to agree not to use Thelma as an entrance.

C: The DZC cites a full page, Page 6 of the opinion, of testimony by Mr. Miller, which has nothing to do with the case before the DZC.

D: The DZC cited testimony by Mr. Wenzel on Page 6 of the opinion that was totally unsubstantiated.

E: Previous Zoning Commissioners and Deputy Zoning Commissioners have in fact allowed inventory parking by approving such a use permit pursuant to Section 409.8, see Case Number 02-235-SPH.

F: The DZC, on Page 9 of his opinion cites, once again, a Code Enforcement matter, by erroneously stating that it shows the Petitioner's intent on how it would use the property if the Petition is granted when the DZC had no evidence of the said Code Enforcement

matter and in fact Mr. Wenzel was not present at the Code Enforcement hearing. Also, refer to the DZC's own quote cited in A above.

G: The DZC comes to a conclusion that the site in question can be used for a residence when there was no such evidence presented at the hearing on this matter.

H: Last, but far from least, the DZC makes the following statement on Page 9 of the opinion: "I also understand that my decision in this matter is consistent with the recent decision by the Board of Appeals to deny the request by Mile One Auto for inventory parking in residential zones in case no, 06-109-SPH." The DZC is relying on a case that (a) was not argued before him,(b) on a case that has not been finally issued by a written order and opinion at the time of the opinion being written in this case and (c), by relying on this case DZC in fact gave counsel no opportunity to argue whether that case is in some way can be distinguished from the subject case.

Therefore, counsel for the Petitioner hereby requests a reconvening of the hearing in order that the above matters be addressed. In addition, I would point out that the time for an appeal is tolled by the filing of this motion and that since there is no counsel on the opposing side I am under no obligation to send a copy of this Motion to anyone other than the DZC and the People's Counsel.

Sincerely,

Leslie M. Pittler

Copy: Peter Zimmerman

1/31/07

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE

W side of York Road, 25 feet N of

Highview Street

8th Election District

3rd Councilmanic District

(2312 York Road, 3 Thelma Street and Parcel A on Highview Street)

Schaefer-Timonium LLC Legal Owner

- * BEFORE THE
- * DEPUTY ZONING COMMISSIONER
- * FOR
- * BALTIMORE COUNTY

*

* CASE NO. 07-220-SPHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing and Variance filed by the legal owners of the subject property, Schaefer-Timonium LLC, for property at 2312 York Road, 3 Thelma Street and Parcel A on Highview Street. The Variance is to permit a buffer of 6 feet in lieu of the minimum required 50 feet and to permit a parking lot setback of 6 feet in lieu of the required 75, and to Section 409.4 to permit parking spaces for stored motor vehicles without direct access to a drive aisle in lieu of the required direct access to a drive aisle.

The Special Hearing request is filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve business parking in a residential zone, pursuant to Section 409.8.B of the Baltimore County Zoning Regulations (B.C.Z.R.), including the storage of unlicensed passenger motor vehicles (not for sale), and to amend the plan approved and the Order in Case No. 00-215-X.

The property was posted with Notice of Hearing on January 2, 2007 for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on January 9, 2007, to notify any interested persons of the scheduled hearing date.

1-31-07

Applicable Law

Section 500.7 of the B.C.Z.R. Special Hearings

The 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. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

Section 307 of the B.C.Z.R. Variances

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

Zoning Advisory Committee Comments

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: A ZAC comment letter was received from the Department of Environmental Protection and Resource Management dated December 29, 2006 which contains restrictions, copies of which are incorporated herein and made a part hereof the file.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing and variance relief were William Schaefer, of Schaefer-Timonium LLC, Petitioner and Kenneth Colbert with Colbert Matz Rosenfelt, Inc., who prepared the site plan. Leslie M. Pittler, Esquire, represented

1-31-02

the Petitioners. Appearing at the hearing in opposition to the requests were Tim Wenzel, adjacent property owner, Louis Miller, representing the Greater Timonium Community Council, and Harold Barnes, President of the West Timonium Heights Community Association. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Code Enforcement Comments

This matter is currently the subject of an active violation case (Case No.06-2568) in the Division of Code Inspections and Enforcement. A citation for code violation has been issued in this matter due non-compliance with the approved site plan in Case No. 00-215-X.

It should be noted, for the record, that the fact that a zoning violation is issued is simply ignored in this zoning case. This means that the Petitioner cannot use the fact that a use may have been made of a property to set a precedent in order to allow it to continue. The reason for this is that this condition is clearly self-imposed and as such cannot be a basis for the hardship or practical difficulty required by Section 307 of the B.C.Z.R. Conversely, the fact that something may have been done which could violate the law is not held against the Petitioner as some sort of an additional punishment. Zoning enforcement is conducted by the Department of Permits and Development Management, which has the authority to impose fines and other penalties for violation of law. This is not the province of this office.

Testimony and Evidence

The subject property consists of three parcels, with the addresses of 2312 York Road, 3 Thelma Street and Parcel A on Highview Street which contain a total of 0.956 acres and is improved by the Petitioner's used cars sales business on the York Road property. The Thelma Street and Highview Street parcels are vacant. The York Road parcel is zoned BR while the Thelma Street and Highview Street parcels are zoned DR 3.5.

1-3/02

Mr. Colbert, a registered professional engineer, indicated the subject property is located on the west side of York Road north of the Timonium Fair Grounds as shown in the aerial photograph of the area, Petitioner's exhibit 1. Immediately to the south of the property is an restaurant and to the north a mixed use commercial building containing a bank among other commercial uses. He indicated that many of the residences along York Road in this area have been converted to office and commercial uses. To the west is the residential community known as West Timonium Heights. To the west of the residential community is property owned by the Fairgrounds into which both Thelma and Highview Streets dead end.

Mr. Colbert presented a colored site plan as Petitioner's exhibit 2, which shows the problem the Petitioner faces in using the Thelma and Highview properties. He noted that the Residential Transition Area regulations1B01.1.B.1.e require a buffer of 50 feet shown in orange and setback of 75 feet shown in blue. He opined that the only usable property left to the owner is the very small triangle shown in green.

He presented next the redline plat to accompany, Petitioner's exhibit 3, which shows the Petitioner's proposed use of the Thelma and Highview parcels as commercial parking in a residential zone. The Petitioner proposes to store unlicensed passenger vehicles on these parcels on a paved parking lot. These vehicles would not be for sale.

Access to the proposed storage lot would be from the York Road parcel and from Thelma Street. Mr. Colbert noted that the proposed entrance on Thelma is opposite the parking lot of the mixed commercial building to the north. The subject site has only 66 feet of frontage on Thelma. On the south the proposed storage lot would be opposite the storm water management facility for the commercial buildings along Highview. He opined that if a vehicle had to be transported by car carrier to the proposed storage lot, it could gain access to the proposed lot via the used car dealership to the east. No lighting is proposed for the storage lot. Hours of

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operation of the storage lot would be the same as the used car dealership. No sales would take place on the storage lot but rather a vehicle ready for sale would be moved to the used car lot to the east. He noted that the storage lot would be buffered from the residential community to the west by a board on board fence and landscape buffer 6 feet wide. He agreed to submit a landscaping plan to the County for approval.

He opined that allowing the storage lot as proposed would not adversely affect the health, safety and welfare of the community, that the proposed use satisfies the criteria of Section 502.1 of the BCZR considering the adjacent uses, the limitation to passenger vehicles, no lighting, etc. He pointed out that a property only 66 feet wide can not comply with a 75 foot setback requirement. Finally he opined that the proposed use as defined in Petitioner's exhibit 3, would be compatible with the community pursuant to Section 32-4-402 as there are no residential uses along Highview and commercial uses for the most part along Thelma.

Upon questioning he indicated that approximately 50 feet of parking on the mixed commercial building to the north is opposite this property on Thelma Street, and the fence would stop alongside Mr. Wenzel's house so it would not appear in his front yard. He admitted that the used car dealership for a prior owner had been granted in Case No. 00-215 X but was unsure whether or not the prior owner complied with the conditions of approval or were cited for zoning violation.

Mr. Miller presented the protestant's case. He presented SDAT data records which indicate the prior owner of the Thelma parcel as Mimiba LLC, which is the operator of the "Still" restaurant across York Road. He next presented a summary of the Order in Case 02-533-SPHA in which the Deputy Zoning Commissioner denied Mimiba a use permit for commercial parking in a residential zone and similar RTA variances for the Thelma parcel. Mr. Pitler

1-3/02

distinguished the subject case from Case 02-533-SPHA pointing out that the Order reflected the problem Mimiba employees could have crossing York Road.

Mr. Miller noted that the Petitioner did not request rezoning of this Thelma and Highview parcels in 2004, the subject property is subject to the Hunt Valley Timonium Plan, and opined that allowing the proposed use would create a domino effect for all the residential properties on the west side of the commercial strip along York Road. He indicated the proposed use was inconsistent with the residential zoning classification, presented photographs of the site as protestant's exhibit 3, and recounted the zoning changes supported by his organization in the past.

He presented charges of zoning violation for the petitioner's used car lots in the area, exhibit 4, similar charges for the subject property as protestant's exhibit 5, and the Zoning Enforcement Officer subsequent findings of zoning violation by this Petitioner as protestant's exhibit 6. He recounted the history of zoning cases on the west side of York Road.

Mr. Wenzel presented SDAT data record showing he owns the adjacent property as protestant's exhibit 6, noted that a prior owner razed the home and trees on the Petitioner's Thelma Street parcel, and that this owner created a crusher run parking lot on the parcel without a permit. He described the flooding problems this caused in the neighborhood as storm water ran off the now impervious parking lot.

He described the Petitioner's present business on the property as the Petitioner's holding lot for his many other used car dealerships, that tow trucks would arrive 24 hours a day, the damage done to his fence by employees of the Petitioner in moving vehicles around, and the sale of vehicles by the Petitioner off the Thelma parcel. He noted that the potential buyer of these vehicles would not just turn on the motor to listen for problems but would rev up the engines and test drive the vehicles late into the evening.

1-3-07

Mr. Wenzel noted that the Thelma parcel was too small to allow large car carriers to pull onto the lot and discharge or pickup vehicles. Consequently car carrier drivers park on Thelma to discharge and pick up vehicles cutting off more then half the street to residents in the community. Finally he complained about the trash he has to clean up from the present uses of the site, the Thelma parcel is a place of business in which 50 to 60 vehicles are sold each day, and noted that the vehicles on the Thelma lot are too expensive to be sold on the Petitioner's used car lot.

Mr. Pitler indicated that his client would agree to forbid using Thelma to transport vehicles to and from the parcel, the parking area will be paved avoiding the problems with crusher run, and pointed out there will be a buffer of fence and landscaping around the storage lot.

Mr. Barnes supported Mr. Wenzel's testimony, opined that the commercial corridor along York Road should not encroach into the residential neighborhood, and recounted his canvas of the residents opposed to the Petition. Mr. Miller presented SDAT data records showing the Petitioner owns the subject property, protestant's exhibit 8 and a letter from the Director of Permits and Development Management on zoning enforcement as protestant's exhibit 9.

Mr. Pitler cited the Hofmeister Case, 373 A2d 273 (1977) in support of the Petition and opined that the way to deal with Mr. Wenzel's complaints is through conditions on approval.

Findings of Fact and Conclusions of Law

This Commission has often approved business parking in a residential zone where the business has difficulty meeting the off street parking requirements of Section 409.6, provided the plan meets the additional criteria of Section 409.B.1.e and 409.6.B 2. By definition this kind of parking is accessory to the parking for the principal use on property in a business or industrial zone. This allows the principal use to meet off street parking requirements. We have approved

1-31-07

such parking for customers and employees of restaurants, employees of car dealerships, employees of cleaning businesses, customers and employees where site conditions limit parking on site, parking for customers and employees where oversize vehicles limit parking on site, split zoned properties, etc. We have denied requests where the accessory parking was too far from the principal commercial use, parking for customers and employees where tenant mix overwhelmed parking on site, etc. Mr. Pitler cites *Hofmeister et al v Frank Realty Company*, 35 MD App 691, 373 A2d 273 (1977) in support of his client's request. This case involved parking for the Overlea Hall, a catering business, in an adjacent residential zone. The use permit was to allow customer and employee parking in support of the catering establishment which was located on business zoned property. The Court of Special Appeals upheld the County's grant of the use permit.

The common thread throughout these decisions is that the parking on the commercial site is somehow limited, the customers and employees of the commercial use need parking, and the adjacent residential property can be adequately buffered from the adjacent residential uses. As mentioned at the hearing, accessory business parking in residential zones can be a very good planning tool as the parking lot with landscaping can give additional separation and buffering for residential communities from an intense commercial use compared to what can be accomplished toward these goals on the commercial site itself.

However this case has none of the redeeming characteristics we typically find. First there is no evidence the commercial site (the used car lot) lacks parking on site, nor that the used car lot is limited by some on site condition, nor that the proposed parking would be accessory to the used car lot and therefore benefit customers and/or employees of the used car lot in their use of the used car lot, nor that the proposed use would present additional separation or buffering for the adjacent residential community.

1-31-07 BR Clearly the Petitioner's intention is to extend his used car business into the adjacent residential zone. Mr. Wenzel's description of how the Petitioner used the property prior to the Zoning Enforcement Order indicates strongly his intent how he would use the property should the request be granted. This is neither within the spirit or intent of the regulations.

Petitioner's exhibit 2 shows only a tiny triangle of land which the Petitioner may use should the requested relief be denied because of RTA setback requirements. This appears to be a true hardship on the Petitioner. However the exhibit is based on the Petitioner's use of the property for commercial purposes. Clearly the property had residential uses before and can have such now. There is no RTA setback for residential uses. Fortunately the Petitioner can design extensive buffering at the rear of his used car lot for a new residence on the Thelma Street lot to make it an attractive location.

I also understand that my decision in this matter is consistent with the recent decision by the Board of Appeals to deny the request by Mile One auto dealerships for inventory parking in residential zones in case no. 06-109-SPH.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' special hearing and variance requests should be denied.

IT IS FURTHER ORDERED, the Petitioner's request for Special Hearing request is filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve business parking in a residential zone, pursuant to Section 409.8.B of the Baltimore County Zoning Regulations (B.C.Z.R.), including the storage of unlicensed passenger motor vehicles (not for sale), and to amend the plan approved and the Order in Case No. 00-215-X is hereby DENIED.

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

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM:pz

1-31-0>



JAMES T. SMITH, JR.
County Executive

January 31, 2007

WILLIAM J. WISEMAN III

Zoning Commissioner

LESLIE M. PITTLER, ESQUIRE 25 WANDSWORTH BRIDGE WAY LUTHERVILLE MD 21093

Re: Petition for Special Hearing and Variance

Case No. 07-220-SPHA

Property: 2312 York Road, 3 Thelma Street and Parcel A on Highview Street

Dear Mr. Pittler:

Enclosed please find the decision rendered in the above-captioned case. The petition for Special Hearing and Variance have been denied in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy

Deputy Zoning Commissioner

for Baltimore County

JVM:pz Enclosure

A STATE OF THE STA

Kenneth Colbert, Colbert Matz Rosenfelt, Inc., 2835 Smith Avenue, Suite G, Baltimore MD 21209 William Schaefer, Schaefer-Timonium LLC, 2085 York Road, Timonium MD 21093 Tim Wenzel, 5 Thelma Street, Lutherville MD 21093
Louis Miller, 44 East Timonium Road, Timonium MD 21093
Harold Barnes, 5 West Main Blvd., Timonium MD 21093



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

UNAVAILABLE FOR HEARING

for the property located at: 2312 York Road, 3 Thelma St. and Parcel A on Highview St. which is presently zoned BR and DR-3.5

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 of thereof, hereby petition for a Special Hearing under 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commission should approve

Business parking in a residential zone, pursuant to Section 409.8.B of the BCZR including the storage of unlicensed passenger motor vehicles (not for sale), and to amend the plan approved and the Order in Case No. 00-215-X.

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: Legal Owner(s): Schaefer-Timonium L ✓ Name – Type or Print Name - Type or Print Signature Signature Name - Type or Print Address. Telephone No. City State Zip Code Signature 2085 York Road 410-252-0013 Attorney For Petitioner: Address. Telephone No. Timonium Md. Leslie M. Pittler, Esq. 21093 City State Zip Code Representative to be Contacted: Signature Kenneth J. Colbert, P.E. Company COLBERT MATZ ROSENFELT, INC (eve) 410-581-2282 25 Wandsworth Bridge Way 443-831-9204 (day) 410-653-3838 2835 Smith Avenue, Suite G Address Telephone No. Address Telephone No. Lutherville Md. 21093 Baltimore MD 21209 Zip Code City City Zip Code OFFICE USE ONLY ESTIMATED LENGTH OF HEARING



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at <u>3Thelma St. & Parcel A on Highview St</u> which is presently zoned <u>DR-3.5</u>

I/We do solemnly declare and affirm, under the penalties of periury, that I/we are the legal owner(s) of the property which

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 of thereof, hereby petition for a Variance from Section(s)

1B01.1.B.1.e (5) to permit a buffer of 6 feet in lieu of the minimum required 50 feet and to permit a parking lot setback of 6 feet in lieu of the required 75 feet, and to Section 409.4 to permit parking spaces for stored motor vehicles without direct access to a drive aisle in lieu of the required direct access to a drive aisle

Of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

The uniqueness and peculiarity of the property causes the zoning provisions to impact disproportionately upon the property. Practical difficulty and unreasonable hardship result from the disproportionate impact of the provisions of the zoning regulations caused by the property's uniqueness.

Property to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Variance, 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.

			Is the subject of this Petition.	(·, · · · · · · · · · · · · · · · · · ·
Contract Purchaser/Lessee:			Legal Owner(s):	
			Schaefer-Timonium LLC	
Name – Type or Print			Name - Type or Print WILLIAM H. S	CHAEFER IR
Signature			Signature	A
Address.	Teleph	one No.	Name – Type of Print	71
Dity	State	Zip Code	Signature	
Attorney For Petitioner:			2085 York Road	410-252-0013
			. Address.	Telephone No.
eslie M. Pittler			Timonium	MD 21093
Name - Type or Print			City	State Zip Code
Shitt. tette			Representative to be Conta	cted:
Gignature				
•			Kenneth J. Colbert	
Company			COLBERT MATZ ROSENFELT,	, INC
25 Wandsworth Bridge Way	443-8	31-9204	2835 Smith Avenue, Suite G	410-653-3838
Address	Teleph	one No.	Address	Telephone No.
_utherville Dity	М	21093	Baltimore	MD 21209
City	State	Zip Code	City	State Zip Code
			OFFICE US	E ONLY
Casa Na 07-111	- A DL	ΙΔ	ESTIMATED LENGTH OF H	

Colbert Matz Rosenfelt, Inc.

Civil Engineers • Surveyors • Planners



SPECIAL HEARING

ZONING DESCRIPTION FOR 2312 YORK ROAD, 3 THELMA STREET AND PARCEL A ON HIGHVIEW STREET

Beginning at a point on the east side of York Road, 80 feet wide, 25 feet north of the centerline of Highview Street, 50 feet wide, thence the following courses and distances:

N 82°16'45" W 300.46 ft.;

N 72°13'36" E 99.84 ft.;

N 17°57'44" W 126.00 ft.;

N 72°13'36" E 66.00 ft.;

S 17°57'44" E 10.00 ft.;

N 72°13'36" E 108.30 ft.;

Thence by a curve to the right, radius 12.00 ft., length 18.90 ft.;

S 17°32'45" E 100.64 ft.

Thence by a curve to the right, radius 76,564.36 ft., length 124.77 ft,; thence S 39°29'01" W 16.20 ft. to the Point of Beginning.

Being Lots 1-12 and 17-19 in the Plat of Timonium Heights, recorded in Book 5, page 82, and Parcel A in the plat of Timonium Heights, recorded in Book 57, page 135 and containing 41,635 Sq. Ft. or 0.956 acres, more or less. Also known as 2312 York Road, 3 Thelma Street and Parcel A on Highview Street, and located in the 8th Election District. 3rd Councilmanic District.



Colbert Matz Rosenfelt, Inc.

Civil Engineers • Surveyors • Planners



ZONING DESCRIPTION FOR VARIANCE 3 THELMA STREET AND PARCEL A ON HIGHVIEW STREET



Beginning at a point on the south side of Thelma Street, 80 feet wide, 160 feet west of the centerline of York Road, 80 feet wide, thence the following courses and distances:

S 17° 57' 44" E, 206.14ft. N 82° 16' 45" W E, 184.10 ft.; N 72° 13' 36" E, 99.84 ft.; N 17° 57' 44" W, 116.00 ft; N 72° 13' 36" E, 66.00 ft.; to the Point of Beginning.

Being Lots 17-19 in the Plat of Timonium Heights, recorded in Book 5, page 82, and Parcel A in the plat of Timonium Heights, recorded in Book 57, page 135 and containing 14,944 Sq. Ft. or 0.343 acres, more or less. Also known as 3 Thelma Street and Parcel A on Highview Street, and located in the 8th Election District, 3rd Councilmanic District.



DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (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.

	aper Advertising:	
	er or Case Number: 07-220-SPHA	
Petitioner:	Schaefer-Timonium LLC	
Address or l	Location: 2312 York Road	•
	DRWARD ADVERTISING BILL TO:	•
Name:	Leslie MP:HICC	
Address:	25 Wandsworth Bridge Way	· · · · · · · · · · · · · · · · · · ·
	25 Wandsworth Bridge Way Lutherville, Hd. 21093	
	Number: 410 · 823 · 4455	

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 properly identified herein as follows:

Case: # 07-220-SPHA

2312 York Road, 3 Thelma Street and Parcell A on Highview Street. Location: West side of York Road, 25: feet north of Highview Street.

8th Election District - 3rd Councilmanic District Legal Owner(s): Schaefer-Timonium LLC

Special Hearing: To approve business parking in a residential zone, pursuant to Section 409.8 B of the BCZR, including the storage of unlicensed passenger motor vehicles (not for sale), and to amend the plan approved and the Order in Case No. 00-215-X. Variance: To permit a buffer of 6 feet in lieu of the minimum required 50 feet and to permit a parking lot setback of 6 feet inflieulof, the required 75 feet, and to Section 409.4 to permit parking spaces for stored motor vehicles without direct access to a drive aisle in lieu of the required direct access to a drive aisle.

Hearing: Tuesday, January 23, 2007 at 10:00 a.m.ln. Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County 5-1

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. JT/1/664 Jan. 9 120906

CERTIFICATE OF PUBLICATION

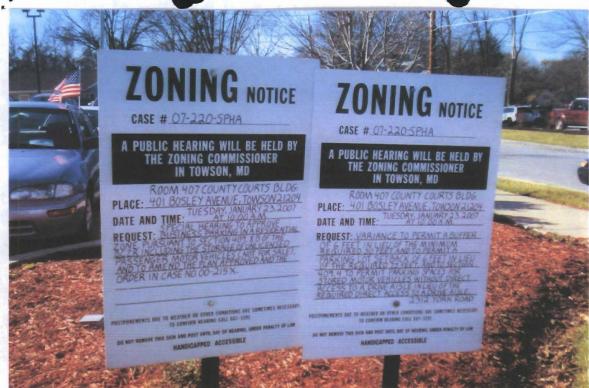
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
on 19,2007.
The Jeffersonian Arbutus Times Catonsville Times Towson Times Owings Mills Times NE Booster/Reporter North County News
\mathcal{O} :
LEGAL ADVERTISING

DISTRIBUTION WHITE CASHIER		FOR.	FROM:		DATE	MISCELLANE	BALTIMORE
PINK - AGENCY YE	Mow The state of t	York Poa	Tree Market	AM	14/06	DGET & FINANCE EOUS RECEIPT	COUNTY, MARYL
LOW CUSTOMER				TINT S	OUNT ROOM		AND
		XHUS-OK			06-6150	No. 22706	
8							
SHER'S VALIDATION	The second of th						
				4			

~1. 0° ₹

ATTENTION: KRISTEN MATHHEWS	DATE:	1/2/07
Case Number: 07-220-SPHA		
Petitioner/Developer: Schaefer-Timonium LLC~Leslie N	A Pitler Fsg ~Colhert Matz & Rosenfelt	
Date of Hearing (Closing): 01/23/07	The cod. Consort made a recognist	
This is to certify under the penalties of perjury that the necessal conspicuously on the property located at: 2 SIGNS POSTE	ary sign(s) required by law were posted D @ 2312 YORK ROAD AND 2 SIGNS POSTED AT	

FARCELA ON R	IIGHVIEW STREET (ON-SITE)	
The sign(s) were posted on: 01/02/07		
SEE PHOTOS	Lite O'Veal	
	(Signature of Sign Poster)	
	(3.3.11.1.2.2.1.1.2.1.1.1.1.1.1.1.1.1.1.1	
•	Linda O'Keefe	
	(Printed Name of Sign Poster)	
	523 Penny Lane	
	(Street Address of Sign Poster)	
•	Hunt Valley Maryland 2100	80
	(City, State, Zip Code of Sign Poste	
	,,,,,,	,
	410-666-5366	
	(Telephone Number of Sign Poster	·)



2 Signs Posted at 2312 YORK ROAD



2 Signs Posted at Parcel Aon Highview Street

Requested: 6/22/07

APPEAL SIGN POSTING REQUEST

CASE NO. 07-220-SPHA

2312 YORK ROAD, 3 THELMA ST. PARCEL A

8TH ELECTION DISTRICT

APPEALED: 4/2/2007

ATTACHMENT - (Plan to accompany Petition - Petitioner's Exhibit No. 1)

COMPLETE AND RETURN BELOW INFORMATION*

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals 400 Washington Avenue, Room 49 Towson, MD 21204

Attention: Kathleen Bianco Administrator

CASE NO.: 07-220-SPHA

LEGAL OWNER: SCHAEFER-TIMONIUM, LLC

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

2312 YORK ROAD, 3 THELMA ST. PARCEL A

The sign was posted on Aug 23	, 2007.	
By: Manharala	-	
(Signature of Sign Poster)		
(Print Name)		_



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director
Department of Permits and
Decorporated 81,020,000

Leslie M. Pittler, Esq. 25 Wandsworth Bridge Way Lutherville, MD 21093

Dear Mr. Pittler:

RE: Case Number: 07-220-SPHA

The above matter, previously scheduled for January 18, 2007, has been postponed due to a scheduling conflict the with the Zoning Commissioner's Office. 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).

M. VI

Timothy Kotroco Director

TK:klm

C: William Schaefer, Jr., 2085 York Road, Timonium 21093 Kenneth Colbert, 2835 Smith Avenue, Ste. G., Baltimore 21209



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director

Department of Permits and
December 18, 20% velopment 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: 07-220-SPHA

2312 York Road, 3 Thelma Street and Parcel A on Highview Street Location: West side of York Road, 25 feet north of Highview Street. 8th Election District – 3rd Councilmanic District Legal Owner(s): Schaefer-Timonium LLC

<u>Special Hearing</u> to approve business parking in a residential zone, pursuant to Section 409.8.B of the BCZR, including the storage of unlicensed passenger motor vehicles (not for sale), and to amend the plan approved and the Order in Case No. 00-215-X. <u>Variance</u> to permit a buffer of 6 feet in lieu of the minimum required 50 feet and to permit a parking lot setback of 6 feet in lieu of the required 75 feet, and to Section 409.4 to permit parking spaces for stored motor vehicles without direct access to a drive aisle in lieu of the required direct access to a drive aisle.

Hearing: Tuesday, January 23, 2007 at 10:00 a.m. in Room 407 in the County Courts Building,

401/Bosley Ayenue, Towson 21204.

Timothy Kotroco Director

TK:klm

C: Schaefer-Timonium LLC William H. Schaefer, Jr. 2085 York Road Timonium 21093 Leslie M. Pittler, Esq. 25 Wandsworth Bridge Way Lutherville 21093 Kenneth J. Colbert, P.E. Colbert Matz Rosenfelt, Inc. 2835 Smith Avenue, Suite G. Baltimore 21209

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JANUARY 8, 2007.

- (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

Tuesday, January 9, 2007 Issue - Jeffersonian

Please forward billing to:

Leslie M. Pittler 25 Wandsworth Bridge Way Lutherville, MD 21093

410-823-4455

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: 07-220-SPHA

2312 York Road, 3 Thelma Street and Parcel A on Highview Street Location: West side of York Road, 25 feet north of Highview Street.

8th Election District – 3rd Councilmanic District Legal Owner(s): Schaefer-Timonium LLC

<u>Special Hearing</u> to approve business parking in a residential zone, pursuant to Section 409.8.B of the BCZR, including the storage of unlicensed passenger motor vehicles (not for sale), and to amend the plan approved and the Order in Case No. 00-215-X. <u>Variance</u> to permit a buffer of 6 feet in lieu of the minimum required 50 feet and to permit a parking lot setback of 6 feet in lieu of the required 75 feet, and to Section 409.4 to permit parking spaces for stored motor vehicles without direct access to a drive aisle in lieu of the required direct access to a drive aisle.

Hearing: Tuesday, January 23, 2007 at 10:00 a.m. in Room 407 in the County Courts Building,

401 Bosley 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.



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director Department of Permits and December 6, 2008 Development Management

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: 07-220-SPHA

2312 York Road, 3 Thelma Street and Parcel A on Highview Street Location: West side of York Road, 25 feet north of Highview Street.

8th Election District – 3rd Councilmanic District Legal Owner(s): Schaefer-Timonium LLC

SPECIAL HEARING To approve business parking in a residential zone, pursuant to Section 409.8.B of the BCZR, including the storage of unlicensed passenger motor vehicles (not for sale), and to amend the plan approved and the Order in Case No. 00-215-X.

VARIANCE To permit a buffer of 6 feet in lieu of the minimum required 50 feet and to permit a parking lot setback of 6 feet in lieu of the required 75 feet, and to Section 409.4 to permit parking spaces for stored motor vehicles without direct access to a drive aisle in lieu of the required direct access to a drive aisle.

Hearing: Thursday, January 18, 2007 at 10:00 a.m. in Room 407 in the County Courts Building, 401 Bosley Avenue, Towson 21204.

1 Must Kestrones

Timothy Kotroco Director

TK:amf

C: Schaefer-Timonium LLC William H. Schaefer, Jr. 2085 York Road Timonium 21093 Leslie M. Pittler, Esq. 25 Wandsworth Bridge Way Lutherville 21093 Kenneth J. Colbert, P.E. Colbert Matz Rosenfelt, Inc. 2835 Smith Avenue, Suite G. Baltimore 21209

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, DECEMBER 28, 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 28, 2006 Issue - Jeffersonian

Please forward billing to:

Leslie M. Pittler 25 Wandsworth Bridge Way Lutherville, MD 21093 410-823-4455

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: 07-220-SPHA

2312 York Road, 3 Thelma Street and Parcel A on Highview Street Location: West side of York Road, 25 feet north of Highview Street.

8th Election District – 3rd Councilmanic District Legal Owner(s): Schaefer-Timonium LLC

SPECIAL HEARING To approve business parking in a residential zone, pursuant to Section 409.8.B of the BCZR, including the storage of unlicensed passenger motor vehicles (not for sale), and to amend the plan approved and the Order in Case No. 00-215-X.

VARIANCE To permit a buffer of 6 feet in lieu of the minimum required 50 feet and to permit a parking lot setback of 6 feet in lieu of the required 75 feet, and to Section 409.4 to permit parking spaces for stored motor vehicles without direct access to a drive aisle in lieu of the required direct access to a drive aisle.

Hearing: Thursday, January 18, 2007 at 10:00 a.m. in Room 407 in the County Courts Building, 401 Bosley 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 Board of Appeals of Baltimore County

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

FAX: 410-887-3182

Hearing Room - Room 48 Old Courthouse, 400 Washington Avenue

in adoption

NOTICE OF ASSIGNMENT

CASE #: 07-220-SPHA

IN THE MATTER OF: SCHAEFER-TIMONIUM, LLC - Legal Owner /Petitioner 2312 York Road, 3 Thelma Street and Parcel A on Highview Street \8th Election District; 3rd Councilmanic District

1/31/07 – D.Z.C.'s Decision in which requested zoning relief was DENIED. 3/06/07 – Petitioners' request for reconsideration is DENIED by D.Z.C.

ASSIGNED FOR:

TUESDAY, MARCH 11, 2008 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 B, 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

¢:

Counsel for Appellant /Petitioner

: Leslie M. Pittler, Esquire

Appellant /Petitioner

: William H. Schaefer, Jr. /Schaefer-Timonium,

LLC Kenneth J. Colbert, P.E. /Colbert Matz Rosenfelt, Inc.

Tim Wenzel

Louis W. Miller /Greater Timonium Community Council

Harold Barnes, President / West Timonium Heights Community Assn.

Office of People's Counsel

William J. Wiseman III /Zoning Commissioner

Pat Keller, Planning Director

Mike Mohler, Code Enforcement /PDM

Raymond S. Wisnom, Jr., Code Official /PDM /CC-06-2568

Timothy M. Kotroco, Director /PDM



Attorney at Law 25 Wandsworth Bridge Way Lutherville, Maryland 21093

JANUARY 14, 2008

Telephone: 410-823-4455 Fax: 410-296-4461

Ms. Kathleen C. Bianco Administrator County Board of Appeals 400 Washington Avenue Towson, Maryland 21204

> RE: CASE NUMBER-07-220-SPHA SCHEDULED FOR MARCH 11, 2008, 10:00AM

Dear Kathy:

Pursuant to our discussion last week, as well as my discussion with Peter Zimmerman the Peoples Counsel, I am hereby requesting a postponement of the case of IN THE MATTER OF SCHAEFER-TIMONIUM, LLC, CASE NUMBER 07-220-SPHA. Mr. Zimmerman has advised me that he does not oppose the request.

This matter is an issue in the Comprehensive Zoning Map Process and is issue number 3-005. Should the property be rezoned, the issue before the Board will be moot. Should the property not be rezoned, there would be a possibility that the case before the Board could be withdrawn. In any event it seems prudent to reschedule the case after October 1, 2008, which would coincide with the adoption of the 2008 CZMP.

Thank you for having the Board consider this request.

Sincerely

Leslie M. Pittler

Cc: Peter Max Zimmerman, Esquire

RECEIVED

JAN 1 4 2008

BALTIMORE COUNTY BOARD OF APPEALS



County Board of Appeals of Baltimore County

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

FAX: 410-887-3182

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

January 2, 2008

De selection of the sel

NOTICE OF ASSIGNMENT

CASE #: 07-220-SPHA

IN THE MATTER OF: SCHAEFER-TIMONIUM, LLC - Legal Owner
/Petitioner 2312 York Road, 3 Thelma Street and Parcel A on
Highview Street 8th Election District; 3rd Councilmanic District

1/31/07 - D.Z.C.'s Decision in which requested zoning relief was DENIED. 3/06/07 - Petitioners' request for reconsideration is DENIED by D.Z.C.

ASSIGNED FOR:

TUESDAY, MARCH 11, 2008 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 B, 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 hearing date.

Kathleen C. Bianco Administrator

c:

Counsel for Appellant /Petitioner

: Leslie M. Pittler, Esquire

Appellant /Petitioner

: William H. Schaefer, Jr. /Schaefer-Timonium,

LLC Kenneth J. Colbert, P.E. /Colbert Matz Rosenfelt, Inc.

Tim Wenzel

Louis W. Miller /Greater Timonium Community Council

Harold Barnes, President /West Timonium Heights Community Assn.

Office of People's Counsel

William J. Wiseman III /Zoning Commissioner

Pat Keller, Planning Director

Mike Mohler, Code Enforcement /PDM

Raymond S. Wisnom, Jr., Code Official /PDM /CC-06-2568

Timothy M. Kotroco, Director /PDM

Do her postpored note file of Change

Printed with Soybean Ink on Recycled Paper



County Board of Appeals of Baltimore County

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

Hearing Room – Room 48 Old Courthouse, 400 Washington Avenue

January 17, 2008

NOTICE OF POSTPONEMENT

CASE #: 07-220-SPHA

IN THE MATTER OF: SCHAEFER-TIMONIUM, LLC – Legal Owner

/Petitioner 2312 York Road, 3 Thelma Street and Parcel A on
Highview Street 8th Election District; 3rd Councilmanic District

1/31/07 – D.Z.C.'s Decision in which requested zoning relief was DENIED. 3/06/07 – Petitioners' request for reconsideration is DENIED by D.Z.C.

which was scheduled to be heard on March 11, 2008 has been **POSTPONED** at the request of Counsel for Petitioner, and without objection by the Office of People's Counsel; **TO BE RESCHEDULED FOR HEARING AFTER OCTOBER 1, 2008, AND THE ADOPTION OF THE 2008 COMPREHENSIVE ZONING MAPS; AND RESET ONLY UPON THE REQUEST OF COUNSEL /PARTIES TO THIS MATTER.**

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 B, 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 Appellant /Petitioner

: Leslie M. Pittler, Esquire

Appellant /Petitioner

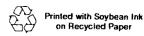
: William H. Schaefer, Jr. /Schaefer-Timonium, LLC

Kenneth J. Colbert, P.E. /Colbert Matz Rosenfelt, Inc.

Tim Wenzel

Louis W. Miller /Greater Timonium Community Council Harold Barnes, President /West Timonium Heights Community Assn.

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Mike Mohler, Code Enforcement /PDM
Raymond S. Wisnom, Jr., Code Official /PDM /CC-06-2568
Timothy M. Kotroco, Director /PDM





JAMES T. SMITH, JR. County Executive

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

January 18, 2007

Leslie M. Pittler, Esquire 25 Wandsworth Bridge Way Lutherville, MD 21093

Dear Ms. Pittler:

RE: Case Number: 07-220-SPHA, 2312 York Road, 3 Thelma Street, and Parcel A on Highview Street

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 14, 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

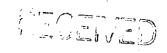
Enclosures

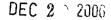
c: People's Counsel Schaefer-Timonium LLC William H. Schaefer, Jr. 2085 York Road Timonium 21093 Kenneth J. Colbert, P.E. Colbert Matz Rosenfelt, Inc. 2835 Smith Avenue, Suite G Baltimore 21209

1-23-09 JM

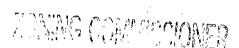


Inter-Office Correspondence









TO: -

Timothy M. Kotroco

FROM:

Dave Lykens, DEPRM - Development Coordination

DATE:

December 29, 2006

SUBJECT:

Zoning Item

07-220-SPHA

Address

213 York Road; 3 Thelma St; Parcel A on Highview St.

(Schaefer - Timonium, LLC)

Zoning Advisory Committee Meeting of November 20, 2006

The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

Reviewer:

Glenn Shaffer

Date: December 6, 2006

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: November 28, 2006

Department of Permits & Development

Management

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For November 27, 2006

Item Nos. 07-72, 139, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224,

226, 227, and 228

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-11272006.doc

Fire Department

700 East Joppa Road Towson, Maryland 21286-5500 Tel: 410-887-4500



Baltimore County

James T. Smith, Jr., County Executive John J. Hohman, Chief

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204 November 22,2006

ATTENTION: Zoning Review Planners

Distribution Meeting Of: November 20, 2006

Item Number(s): 213 through 228

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 Robert L. Flanagan, Secretary Neil J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: NOVEMBER 20, 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. 7-220-SPHA

2312 YORK PD, 3THELMA STREET

OCHAEFER-TIMONIUM LLC

SPECIAL HEARING &

VARIANCE

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. 7-220 SPHA.

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.

Steven D. Foster, Chief

Engineering Access Permits

Division

SDF/MB

RE: PETITION FOR SPECIAL HEARING AND VARIANCE

2312 York Rd, 3 Thelma St, & Parcel A on

Highview St; W/S York Rd, 25' N Highview St 8th Election & 3rd Councilmanic Districts *

8" Election & 3" Councilmanic Districts Legal Owner(s): Schaefer-Timonium, LLC

Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

07-220-SPHA

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/ documentation filed in the case.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

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 20th day of November, 2006, a copy of the foregoing Entry of Appearance was mailed Kenneth Colbert, PE., Colbert Matz Rosenfelt, Inc, 2835 Smith Avenue, Suite G, Baltimore, MD 21209 and Leslie Pittler, Esquire, 25 Wandsworth Bridge Way, Lutherville, MD 21093, Attorney for Petitioner(s).

RECEIVED

NOV 2 0 2006

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Per.....

Petition for Special Hearing and Variance 2312 York Road, 3 Thelma Street and Parcel A on Highview Street West side of York Road, 25 feet north of Highview Street 8th Election District – 3rd Councilmanic District Legal Owner(s): Schaefer-Timonium LLC

Case No.: 07-220-SPHA

Petition for Special Hearing and Variance (November 14, 2006) Zoning Description of Property Notice of Zoning Hearing (December 18, 2006) Certification of Publication (January 11, 2007) Certificate of Posting (January 2, 2007) by Linda O'Keefe **BOARD OF APPEALS** Entry of Appearance by People's Counsel (November 20, 2006) Petitioner(s) Sign-In Sheet - One sheet Protestant(s) Sign-In Sheet – None Çitizen(s) Sign-In Sheet – One sheet **Zoning Advisory Committee Comments**

BALTIMORE COUNTY

Petitioners Exhibit

1. GIS map of site

2. Not in file

 J_3 . Plan to accompany zoning hearing

Protestants' Exhibits:

Property search for 3 Thelma Street

Disposition for Zoning case 02-533-SPHA

√(A – D) Photographs of area

Code Enforcement citation 06-2568

Code Enforcement citation 06-2566

Final Order of the Code Enforcement Hearing Officer 06-2566

roperty Search for 5 Thelma Street

A – Real property search for 3 Thelma Street

B - Real property detail for 2085 York Road

Code Enforcement Workshop, August 1, 2003

Miscellaneous (Not Marked as Exhibit)

Code Enforcement Entries - Case #06-2568

2. 200 scale map of site

Letter of postponement

Findings of Fact and Conclusions of Law from Case No. 00-215-X

Findings of Fact and Conclusions of Law from Case No. 02-533-SPHA

 $m m{V}$ 6. Order on Motion for Reconsideration Case No. 07-220-SPHA

Harold Barnes 5 W. Main Boulevard Timonium 21093

Øeputy Zoning Commissioner's Order (DENIED in accordance w/order – January 31, 2007)

Notice of Appeal received on April 2, 2007 from Leslie M. Pittler

People's Counsel of Baltimore County, MS #2010 c: Zoning Commissioner/Deputy Zoning Commissioner Timothy Kotroco, Director of PDM William H. Schaefer, Jr. 5 Johnson Mill Road Ruxton 21204 Kenneth J. Colbert, P.E. Colbert Matz Rosenfelt, Inc 2835 Smith Avenue, Suite G. Baltimore 21209 Tim Wenzel 5 Thelma Street Lutherville 21093 Louis W. Miller 44 E. Timonium Road Timonium 21093

date sent April 24, 2007, amf



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director

Department of Permits and

Development Management

April 23, 2007

Leslie M. Pittler, Esquire 25 Wandsworth Bridge Way Lutherville, MD 21093

Dear Mr. Pittler:

RE: Case 07-220-SPHA, 2312 York Road, 3 Thelma Street and Parcel A on Highview Street

We have received your appeal on the above referenced case on April 2, 2007. 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

TK:amf

c: William J. Wiseman III, Zoning Commissioner Timothy Kotroco, Director of PDM

People's Counsel

William H. Schaefer, Jr. 5 Johnson Mill Road Ruxton 21204

Kenneth J. Colbert, P.E. Colbert Matz Rosenfelt, Inc 2835 Smith Avenue, Suite G Baltimore 21209

Tim Wenzel 5 Thelma Street Lutherville 21093

Louis W. Miller 44 E. Timonium Road Timonium 21093

Harold Barnes 5 W. Main Boulevard Timonium 21093

CASE #: 07-220-SPHA

IN THE MATTER OF: SCHAEFER-TIMONIUM, LLC – Legal Owner

/Petitioner 2312 York Road, 3 Thelma Street and Parcel A on Highview Street 8th Election District; 3rd Councilmanic District

SPH – To approve business parking in residential zone, including storage of unlicensed passenger motor vehicles (for sale) and to amend plan approved in Case No. 00-215-X;

VAR – To permit buffer of 6' ilo minimum required 50' and to permit parking lot setback of 6' ilo required 75'; and to permit parking spaces for stored motor vehicles without direct access to drive aisle ilo required direct access to drive aisle.

1/31/07 – D.Z.C.'s Decision in which requested zoning relief was DENIED.

3/06/07 – Petitioners' request for reconsideration is DENIED by D.Z.C.

1/02/2008 - Notice of Assignment sent to following; assigned for hearing on Tuesday, March 11, 2008 at 10 a.m.:

Leslie M. Pittler, Esquire

William H. Schaefer, Jr. /Schaefer-Timonium, LLC

Kenneth J. Colbert, P.E. /Colbert Matz Rosenfelt, Inc.

Tim Wenzel

Louis W. Miller / Greater Timonium Community Council

Harold Barnes, President / West Timonium Heights Community Assn.

Office of People's Counsel

William J. Wiseman III /Zoning Commissioner

Pat Keller, Planning Director

Mike Mohler, Code Enforcement /PDM

Raymond S. Wisnom, Jr., Code Official /PDM /CC-06-2568

Timothy M. Kotroco, Director /PDM

1/14/08 – Letter from Leslie M. Pittler, Esquire, counsel for Petitioner – requesting postponement of this matter until

after the adoption of the 2008 CZM – this property is an issue in the 2008 CZMP; could possibly moot Petitioner's request; in alternative, if not rezoned, this Petition could be withdrawn.

1/26/09 – Received telephone call re: status – has appeal been dismissed? Pulled file – and relayed information. Caller said a Notice of Withdrawal will be forthcoming.

5/15/09	Received letter from Peitioner's Attorney, Mr. Pittler, indicating that matter is moot and can be dismissed.
5/20/09	Order of Dismissal prepared for Board's signature.
5/22/09	Order of Dismissal issued by Board.

P	L	E	A	S	E	F	R	2/	٨	lΤ	C	L	E	Α	R	L	Y

CASE NAME	
CASE NUMBER	
DATE	

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL		
Leslie H. P: Hler	25 Wandsworth Broge Wax	Lutherville, Hd. 21093 Baltingge, MD 21209	Les - bw @ compost. net		
Kennoth Colbert	2835 Smith Ave	Baltamore, MD 21209	Kcolbert@cmrennineers.com		
WILLIAM SENATER	5 Lourson MICC PL	Ruxion MD 217	od.		
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			·		
		·			

PLEASE PRINT CLEAR.	ΙΥ
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CASE NAME	•
CASE NUMBER	
DATE	

CITIZEN'S SIGN-IN SHEET

			·
NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Tim Wenzel	5 Theling St	Luthersille MD 21093	timbaystak @ yahou.
LOUIS W. MILLER-	44 E.TIMO WIUM RD	TIM. MD 21093	LEABOCAOL CON
MARULD BARNES)	5W MAIN BUID		HD KARNES OVERIZON NE
	Greater Tumer	un Com Commit	
	renden / Pire	West Tun	Height Com
			Cetaso
			•
·		•	
.462			

IN RE: PETITIONS FOR SPECIAL EXCEPTION *

AND VARIANCE

, B.

SE/S Thelma Street, 159'

SW of York Road

8th Election District

3rd Councilmanic District

(3 Thelma Street)

Mimiba, LLC *Petitioners*

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE NO. 02-533-SPHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing and Variance filed by the legal owner of the subject property, Mimiba, LLC. The Petitioner is requesting a special hearing to approve business parking in a residential zone. In addition, variance relief is being requested from Sections 1B01.1.B.1.e(2) and 409.8.B.2.a of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a parking lot to be as close as 10 ft. in lieu of the required 75 ft. and to allow it to exist as close as 10 ft. in lieu of the required 50 ft. buffer, and to allow the parking facility not to enjoin or be across an alley or street from a business involved.

Appearing at the hearing on behalf of the special hearing and variance requests were John Mitcherling and Dorsey Baldwin, representing the owners of the property, Kenneth Wells, the property line surveyor who prepared the site plan of the property, and F. Vernon Boozer, attorney at law, representing the Petitioner. Appearing in opposition to the Petitioner's request were Larry Townsend and Lou Miller, representing the Greater Timonium Community Council (GTCC), Richard Sammis and his attorney,

IN RE: PETITION FOR SPECIAL EXCEPTION BEFORE THE W/S York Road, 15' N of c/l Highview Street DEPUTY ZONING COMMISSIONER 8th Election District 4th Councilmanic District OF BALTIMORE COUNTY (2312 York Road) CASE NO. 00-215-X Louisa Little, Co-Executor of the Estate of Sol Goldman Petitioners And APF, LLC, by Elliott Lee Packer Contract Purchaser/Lessee

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception filed by the legal owners of the subject property, Louisa Little, Co-Executor of the Estate of Sol Goldman and the Contract Purchaser/Lessee, APF, LLC by Elliott Lee Packer. The special exception request is for property located at 2312 York Road, which property is zoned BR. The Petitioner is requesting permission to utilize the property as a used motor vehicle, outdoor sales area, separated from sales agency building, pursuant to Section 236.4 of the Baltimore County Zoning Regulations (B.C.Z.R.).

Appearing at the hearing on behalf of the special exception request were Richard Sherry on behalf of Al Packer Ford, Tom Kramer, landscape architect with BL Companies and Scott Barhight, attorney at law, representing the Petitioner. Appearing as interested citizens in the matter were Howard Lenderking, Carroll Caslin and Joseph Gehring, all nearby property owners.

Testimony and evidence indicated that the property, which is the subject of this special exception request, consists of a net area of 0.63 acres, more or less, zoned BR.

บาววาธิ//:สาวน ₹¶/0,7/9_{ге} plain text ADA compliant screen Maryland Department of Assessments and Taxation 30 Back **BALTIMORE COUNTY** <u>'iew Map</u> Real Property Data Search ew Search Account Identifier: District - 08 Account Number - 1700010462 Owner Information MIMIBA LLC Owner Name: RESIDENTIAL Princip ...sidence: NO 3 THELMA ST Mailing Address: Deed Reference: 1) /15792/ 644 **LUTH-TIMONIUM MD 21093-2209** 2) **Location & Structure Information Premises Address** Zoning **Legal Description** 3 THELMA ST. LT 17-18-19 3 THELMA ST TIMONIUM HEIGHTS Map Grid Parcel Subdivision Section Block Lot Group Plat No: 5/82 51 23 378 В 81 Plat Ref: 17 Town Special Tax Areas Ad Valorem Tax Class Primary Structure Built **Enclosed Area Property Land Area** County Use 1976 8,316.00 SF **Stories Basement** Type Exterior **SPFOY** SPLIT FOYER SIDING **Value Information** Base Phase-in Assessments. Value. As Of Value As Of As Of 07/01/2001 07/01/2002 01/01/2002 38,070 44,070 Improvements: Total: 38,070 44,070 38,070 40,070 Preferential Land: 0 0 0 **Transfer Information** Seller: COALE WILLIAM ROSS Date: 1/27/200: Price: \$135,000 Type: IMPROVED ARMS-LENGTH Deed1: /15792/ 644 Deed2: COALE ROYSTON GREENE, SR Seller: Date: 01/19/2000 Price: 50 Type: NOT ARMS-LENGTH Deed1: /14269/559 Deed 2: /14269/ 555 BEECHER SHARON COALE 05/22/1986 Seller: Date: Price: **NOT ARMS-LENGTH** Type: Deed1: / 7171/ 118 Deed2: **Exemption Information Partial Exempt Assessments** Class 07/01/2001 07/01/2002 000 County State. 000. 0 0 Municipal 000 0 0

Tax Exempt: Exempt Class:

NO

Special Tax Recapture:

* NONE *

.../results.asp/streetNumber=3&streetName=1nelma&county=04&intMenu=2&5earcn1yp6b/2U/U2

D. 02-533-SPHA – MIMIBA, LLC, William W. Mitcherling, Managing Member V. Boozer, attorney. Special hearing for bussiness parking in a DR 3.5 zoned land

VARIANCE to allow as close as a 10 foot setback in lieu of the required 75 feet for a parking lot and to allow as close as a 10 foot in lieu of the required 50 foot buffer and to allow the parking facility not adjoin or be across an alley or street from the business involve.

Case heard by Deputy Zoning Commissioner

Date and times

July 16, 2002, 2:00pm

Disposition

Petition was denied. Following is the Deputy Zoning Commissioner's report. The Deputy Zoning Commissioner denied the petition for commercial parking in the residential zone and the variances to the RTA regulations. Based on the evidence presented by the opposition consisting of 12 Exhibits he denied both the special hearing and the variance requests.

Mr. W. Clarke, Esq. represented Sammis Auto in this hearing. Two West Timonium Heights residents also appeared in opposition. L. Miller, Treasurer and L. Townsend, Zoning Chair represented GTCC.

His order reads: "Therefore, it is ordered this 22^{ud} day of August 2002, the special hearing request of approved business parking in a residential zone, be and is hereby DENIED." "IT IS FURTHER ORDERED, that the Petition for Variance relief from Sections 1B01.1.e(2) and 409.8.B.2.a of the BCZR to permit a parking lot to be as close as 10 ft. in lieu of the required 75 ft. and to allow it to exist as close as 10 ft in lieu of the required 50 ft. buffer, and to allow the parking facility not to enjoin or be across an alley or street from a business involved, be and is hereby DENIED.

The Petitioner filed an appeal with the Baltimore County Board of Appeals. Appeal hearing date Aug. 13, 2002. This case was then coupled with case 02-165-A, 2323 York Rd., Bad Dog Corp. T/A An Poitin Stil. To be heard on that date.

August 13, 2003

Case postponed to December 4, 2003.

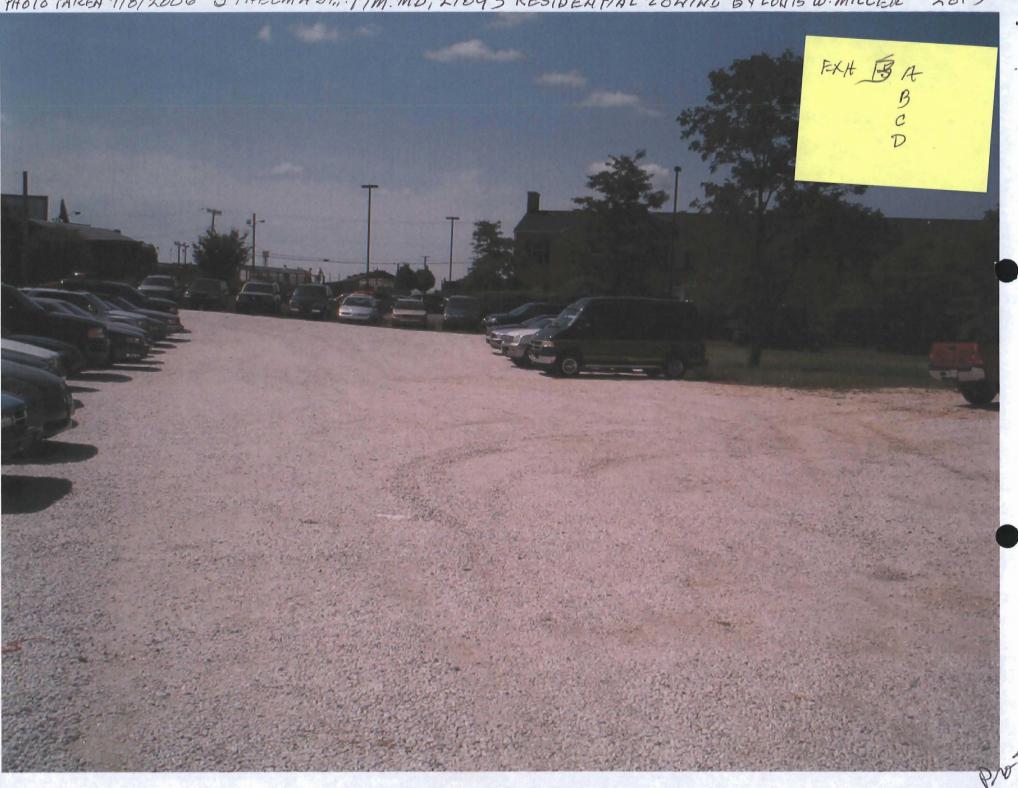
December 4, 2003

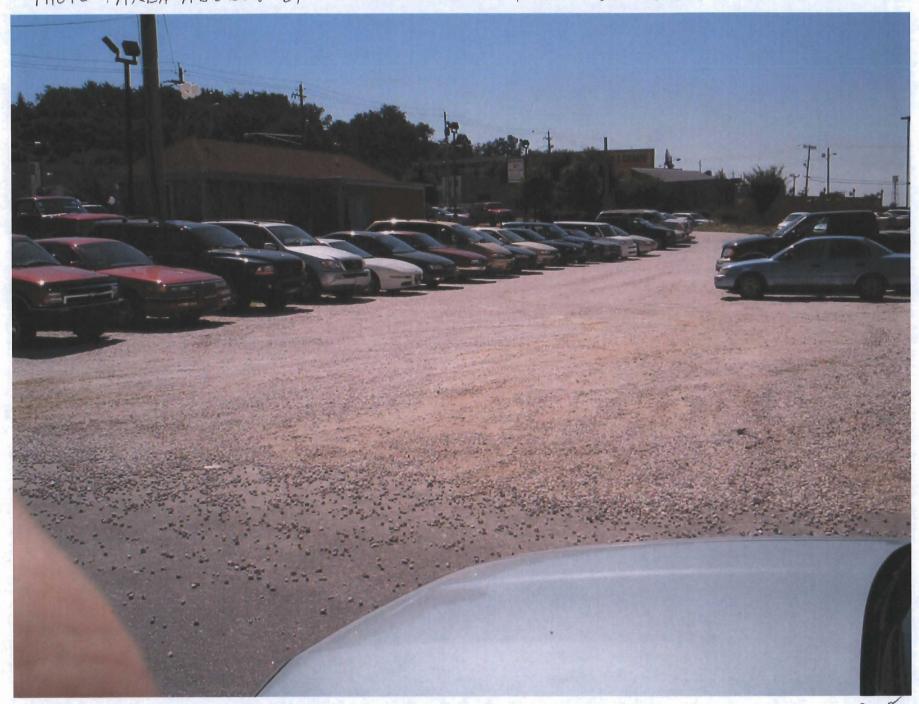
Case decoupled from 02-165-A and rescheduled for May 27, 2004.

Pro #2

EXH. 2

RIA





and in c



Permits and Development Management Code Inspections and Enforcement County Office Building, Rm. 213. 111 West Chesapeake Ave.

RC201A910

RC3(1A92)

OTHER:

RC4CL003)

RC5(tA04)





Towson, Maryland 21204 CODE INSPECTIONS AND ENFORCEMENT 1093 MARYLAND BALTIMORE DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS: RESIDENTIAL ZONE CLASSIFICATION NON-RESIDENTIAL CLASSIFICATION WILLIAM) DR5.5 BL (230) DRI DR2 DRU.5 DK10.5 DR16 BM (233)

BALTIMORE COUNTY ZONING REGULATIONS (B.C.Z.R.)

RC6(1.30°)

RC7 (1A88)

AUTHORITY TO ENFORCE ZONING REGULATIONS: 32-3-102; 32-3-602; 32-3-603; 32-4-114 101; 102.1: Definitions; general use 1301.1: DR Zones-use regulations 415A: Licensel remove untugged recreation vehicle 415A: Improperly parked recreation vehicle 428: License/ Remove all untagged/ inoperative or 415A: One recreational vehicle per property damaged/ disabled motor vehicle(s) 410: Hegal Class II trucking facility 1801.1D: Remove open dump/ junk yard Hegal accessory structure placement. 431: Remove commercial vehicle(s) 1B02.1; 270; 421.1: Hegal kennel. Limit 3 dogs 101; 102.1: Remove contractors equip, storage yard 102.5: Residential site line violation /obstruction 101; 102.1; ZCPM: Ceuse service garage activities 408B: Illegal rooming/ boarding house 402: Illegal conversion of dwelling BCC: 32-3-102; 500.9 BCZR; ZCPM; #1; 102.1; ZCPM: Illegal home occupation Violation of commercial site plan and/or zoning order

450.4 #17; 450,6.47 BALTIMORE COUNTY CODE (B.C.C) 450.6.A.C 13-7-112: Cease all nuisance activity 35-2-301: Obtain building/ fence/ sign permit 13-7-115: County to abate nuisance & lien costs

13-7-310: Remove all trash & debris from property 13-7-312: Remove accumulations of debris, materials, etc 13-7-201(2): Cense stagmant pool water 12-3-106: Remove animal feces daily 35-5-208(a)(c): Seal exterior openings from rodents & pests 13-4-201(b)(d): Store garbage in containers w/tight lids

RC20 & 50 (1A05)

RCC (1A96)

18-2-601: Remove all obstruction(s) at street, alley, road 13-7-310(2): Remove bird seed / other food for rats 32-3-102: Violation of development plan/ site plan IBC 115; BCBC 115: Remove/ Repair unsafe structure board and secure all openings to premise 13-7-401; 13-7-402; 13-7-403: Cut & remove all tall grass and weeds to three (3) inches in height

MI. (253)

Millerson

MR (240)

OTHER:

	OWNER OCCUPIED	D HOUSING (B.C	<u>:.C)</u>
35-5-302(a)(1): Unsanitary co	nditions.	35-5-302(n)(2):	Store all garbage in trash cuns
35-5-302(a)(3): Cense	infestation from prop.	35-5-302(b)(1):	Repair exterior structure
35-5-302(h)(1)(2): Repair dec	orative trim, cornices, etc	35-5-302(b)(1)(3):	Repair exterior extentions
35-5-302(b)(1)(4): Repair chir	mney & similar extentions	35-5-302(b)(1)(5):	: Repair metal/wood surfaces
35-5-302(b)(1)(6): Repair def	ective door(s) / window(s)	35-5-302(b)(1)(7):	Repair defective fence
	INVESTMENT PR	ROPERTY (B.C.C)
35-2-404(a)(1)(i): Remove ha	zardous or unsafe condition	35-2-404(a)(1)(ii):	Repair ext. walls / vertical members
35-2-404(a)(1)(iii): Repair roo	for horizontal members	35-2-404(a)(1)(iv)	Repair exterior chimney
35-2-404(a)(1)(v): Repuir ext.	plaster or masonry	35-2-404(a)(1)(vi)	Waterproof walls/ roof /foundations
35-2-404(a)(1)(vii): Repair exte	erior construction (see below)	35-2-404(a)(1)(2):	Remove trash, rubbish, & debris
35-2-404(u)(1)(3): Repair /rer	nove defective exterior sign(s)	35-2-404(n)(4)(i)(i	it): Board & secure. Material to match building color of structure
THER VIOLATIONS OR REAL			
1 temous All	pechibited.	2012 + 16/6	Stick Signis.
X Re Move pll 1	BANNERS to	+ do No	it have valled
1 temorphise	ise permits	•	
Redove 8/1	licht sole Si	GNS/FACS	E IMPACUES of the
Disk Comment	I Flat were	1.	

Note: NOTICE POSTED AND MAILED POTENTIAL FINE: (5200 z -95OG. \$1000 ., per day, per violation and to be placed aga lien upon your tax bill. PRINT NAME DEFENDANT





Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforceme County Office Building 111 West Chesapeake Avenue Towson, MD 21204

Code Entorconent 40 887-335

Building Inspection:

410-887-3953

Plumbing Inspection: Electrical Inspection: 410-887-3620 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case	2566	Property No.	010	462		Zoning	R3.5
Name(s):	Schae	fce - Ti,	nowin	m LLC	RAI	ovardI	GETLAN
	2085	YorkRd		-	सि	100 1416 (larkview Ro
Address:	VIMONIU	mMd.2	1093-1	1242	BoH	o.Mcl.	21209
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EACH VIOL	ATION SUBJE	TS YOU TO PO	OTENTIA	L FINES OF	\$200, \$.	500, OR \$ 100	ONVICTION FOR 00 PER DAY, PER
Print Name	DEPENDING	ON VIOLATION	N, OR 90 E	DAYS IN JAIL	., OR BO	TH.	
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INSPECTOR

Report 15, 2004 D

Department of Permits and Development Management 111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

EXH SELO

In the Matter of

Civil Citation No.06-2566

Schaeffer-Timonium LLC 2085 York Road Timonium, MD 21093

3 Thelma Street

Howard I. Getlan R/A Suite 100 1416 Clarkview Road Baltimore, MD 21209

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 August 15, 2006, for a hearing on a citation for violations under the Baltimore County Zoning Regulations (BCZR) section 1B01.1A; 1B01.1.B; 1B01.1.B.1.e.5; 102.1; 409; 428; 500.6; 500.9; for failure to cease commercial parking on a residential zoned lot; failure to remove unlicensed motor vehicles; failure to cease service garage activities; failure to provide buffers on residential property zoned DR 3.5 known as 3 Thelma Street, 21093.

On May 5, 2006, pursuant to §3-6-205, Baltimore County Code, Len Wasilewski, Code Enforcement Officer, issued a code enforcement citation. The citation was legally served on the Respondents.

The citation proposed a civil penalty of \$18,600.00 (eighteen thousand six hundred dollars). A code enforcement hearing date was scheduled for August 15, 2006.

Leslie M. Pittler, Esquire appeared as counsel for the Respondent.

Louis W. Miller appeared representing the Greater Timonium Community Council, Inc.

S/O



Click here for a plain text ADA compliant scree



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 - 0802047350

Owner Information

Owner Name:

WENZEL TIMOTHY P

Mailing Address:

5 THELMA ST

TIMONIUM MD 21093-2209

Principal Residence:

RESIDENTIAL

YES

Deed Reference:

1) /20458/ 637

2)

Location & Structure Information

В

Premises Address

5 THELMA ST

Legal Description

LTS 20-23 **5 THELMA ST**

TIMONIUM HEIGHTS

Grid 23 378 **Sub District**

Primary Structure Built

1954

Subdivision

Section Block

Lot **Assesment Area** 20

Plat No: Plat Ref:

5/ 82

Special Tax Areas

Town Ad Valorem

Tax Class

Enclosed Area 899 SF

Property Land Area 5,040.00 SF

County Use 04

Stories

Basement

Type

Exterior

1

NO

STANDARD UNIT

SIDING

Value Information

Base Value Value As Of 01/01/2005

Phase-in Assessments As Of 07/01/2004

As Of 07/01/2005

Land: Improvements: Total:

41,500 90,040 43,030 51,420 84,530 141,460

84,530

103,506

Preferential Land:

0

0

0

Deed1: / 5701/ 794

Transfer Information

FEDERAL NATIONAL Seller: Type:

NOT ARMS-LENGTH Seller:

BLIZZARD EDWARD J

NOT ARMS-LENGTH

BLIZZARD EDWARD J, JR NOT ARMS-LENGTH

Date: Deed1: 02/19/2004 Date:

07/28/2004 /20458/ 637 Price: \$149,900

Deed2:

\$186,000 Price: Deed2:

Deed1: /19630/653 Date: 11/30/1976

Price:

\$0 Deed2:

Exemption Information

0

Partial Exempt Assessments

07/01/2004 0 0

07/01/2005

0 0

Tax Exempt: **Exempt Class:**

Type:

Type:

Seller:

County

Municipal

State

NO

Special Tax Recapture:

* NONE *



Click here for a plain text ADA compliant screen.



Maryland Department of Assessments and Taxation BALTIMORE COUNTY Real Property Data Search



Мар earch d Rent

Account Identifier:

District - 08 Account Number - 1700010462

3 THELMA ST.

Owner Information

Owner Name:

SCHAEFER-TIMONIUM LLC

RESIDENTIAL

Principal Residence:

NO

Mailing Address:

2085 YORK RD

TIMONIUM MD 21093-4242

Deed Reference:

1) /21603/ 431

Location & Structure Information

Section

Premises Address

3 THELMA:ST

Legal Description

LT 17-18-19 3 THELMA ST TIMONIUM HEIGHTS

Map Grid 51 23

Sub District Parcel 378

Primary Structure Built

Subdivision

Block Lot В

Assessment Area

Plat No:

Plat Ref: 5/82

Special Tax Areas

Stories

Town **Ad Valorem**

Tax Class

Enclosed Area

Property Land Area 8,316.00 SF

County Use

Basement

Exterior

Value Information

	Base	Value	Phase-in Assessments		
•	Value	As Of	As Of	As Of	
		01/01/2005	07/01/2005	07/01/2006	
Land:	44,070	69,820	•		
Improvements:	. 0	0			
Total:	44,070	69,820	52,653	61,236	
Preferential Land:	0	0	0	0	

Transfer Information

	SCHAEFER WILLIAM H,JR NOT ARMS-LENGTH	03/24/2005 /21603/ 431	Price: \$0 Deed2:
Seller: Type:	MIMIBA LLC IMPROVED ARMS-LENGTH	 02/11/2005 /21411/ 293	Price: \$177,500 Deed2:
Seller: Type:	COALE WILLIAM ROSS IMPROVED ARMS-LENGTH	11/27/2001 /15792/ 644	Price: \$135,000 Deed2:

Exemption Information

Partial Exempt Assessments County	Class 000	07/01/2005	07/01/2006	
State Municipal	000	0	0	,

Tax Exempt: **Exempt Class:**

Special Tax Recapture:

* NONE *

138.6×60 = 8316 SF (20 20 20 = 60) http://sdatcert3.resiusa.org/rp_rewrite/results.asp?streetNumber=3&... 7/8/2006

2,7,10,14 EXH \$9

August 1, 2003

TO: All Attendees of the Code Enforcement Workshop

FR: Timothy M. Kotroco, Director of Permits and Development Management

RE: Public Meeting Held June 24, 2003

I want to thank each and every one of you who was able to attend my first community meeting. The evening was a huge success. The exchange of information and your ideas on how we can better serve you and your communities on matters involving code enforcement were extremely valuable.

As I mentioned at the meeting, I intend to follow each workshop with a written summary of the topics discussed and what, if any, improvements to code enforcement we are able to make as a result of your suggestions. My staff and I have considered the matters discussed at our meeting and offer the following responses:

1. "Zoning definitions are not available on-line at this time."

Unfortunately, due to circumstances beyond my control, the Baltimore County Zoning Regulations (BCZR) are not available on-line. However, a full copy of these regulations is available at each Baltimore County Public Library for you to inspect, review and copy. We pledge to continue to look into this matter, and hope that the zoning regulations will be available on-line in the future.

2. "Code Enforcement is complaint-driven."

We have adjusted our staffing so that we now may accept anonymous complaints over the phone. However, we would prefer to accept anonymous letters, facsimiles at 410-887-2824, e-mails at pdmenforce@co.ba.md.us, walk-ins and, of course, all complaints channeled though offices of elected officials. Our inspectors will be instructed to "pick up" blatant violations on nearby properties while performing their duties on their assigned inspection sites.

Pro#9

.Case Entry/Update		Mode .	: CHANGE
Format : <u>CASE</u>	REC.	File	: PDLV0001
Dt Rec: <u>4052006</u> Intak	te: <u>JHT</u>	Act:	_ Case #: 06-2568
Insp: WASILEWSKI I	nsp Grp: ENF Insp A	Area: <u>8</u> Tax	Acct: <u>813057660</u>
Address: <u>2312</u> <u>Y</u>	ORK RD	Apt #: _	Zip: 21093
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and the second of the second o		.	
Problem Descript.: CHEC	K COMPLIANCE W/SITE	E PLAN - SCREEN	ING/PAVING/STRIPED
PARKING LOT/SIGNAGE	18-K-1	L O	
18 K 10			<u> </u>
Complainant Name (Last)	: COUNCILMAN	(First): MCINTI	RE
Complainant Addr:	GAIL		
Complainant City:	Sta	ate: Zip:	<u> </u>
Complainant Phone (H):	(W): <u>4</u> 2	L08873387	•
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F10=Entry

F9=Insert



—— - Streams ₹ Vegetation
---- Roads — Rail Lines

Baltimore County Office of Planning and Zoning Official Zoning Map

051A2	051B2	051C2	052 A 2	052B2
051A3	051B3	051C3	052A3	052B3
060A1	060B1	060C1	061A1	061B1

1 = 200

07-220-SPHA



1 inch equals 200 feet

051C3

