

JOHN A. OLSZEWSKI, JR. County Executive

MAUREEN E. MURPHY
Chief Administrative Law Judge
ANDREW M. BELT
Administrative Law Judge
DEREK J. BAUMGARDNER
Administrative Law Judge

February 8, 2024

David H. Karceski, Esquire – <u>dhkarceski@venable.com</u> Venable, LLP 210 W. Pennsylvania Avenue, Suite 500 Towson, MD 21204

RE:

Petition for Variance

Case No. 2023-0265-A

Property: 20-22 West Timonium Road

Dear Mr. Karceski:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

Pursuant to Baltimore County Code § 32-3-401(a), "a person aggrieved or feeling aggrieved" by this Decision and Order may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

ANDREW M. BELT Administrative Law Judge for Baltimore County

AMB:dlm Enclosure

c: Jim Matis — <u>jem@matiswarfield.com</u>
Bill Schaefer — <u>whsofc@aol.com</u>
Brandon Schaefer — <u>brandon@nationwidemotors.net</u>
Rob Hanna — <u>rob@hannabuildingsystems.com</u>

IN RE: PETITION FOR VARIANCE

(20-22 W. Timonium Road)

8th Election District

3rd Council District

Schaefer-Timonium, LLC

Legal Owner

* BALTIMORE COUNTY

Petitioner

* Case No: 2023-0265-A

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings ("OAH") as a Petition for Variance filed by Schaefer-Timonium, LLC ("Petitioner") for property located at 20-22 West Timonium Road, Timonium (the "Property"). The Petitioner filed a Petition for Variance from the Baltimore County Zoning Regulations ("BCZR"), § 450.4.3(a) Table of Sign Regulations 3(a)v to allow wall-mounted directional signs with sign areas/faces of 18 square feet and 19 square feet in lieu of the permitted 8 square feet for each directional sign (Signs M and L).

A public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Brandon Schaefer, authorized representative for the Petitioner attended the hearing along with James Matis, P.E. of Matis Warfield, Inc. who prepared and sealed a site plan ("Site Plan"). (Pet. Ex. 1). David Karceski, Esquire and Adam Rosenblatt of Venable, LLP represented the Petitioner.

Zoning Advisory Committee ("ZAC") comments were received from the Department of Planning ("DOP"), Department of Plans Review ("DPR"), these agencies did not oppose the requested relief. There were no Protestants or interested citizens at the hearing.

The case proceeded by way of proffer by Mr. Karceski. The Property is 2.92 acres +/- (127,195 sf) and although resembling a square, is not symmetrical. It is split-zoned Business, Major (BM), and Manufacturing, Restricted (MR), with an Industrial, Major District (IM). The

Property is surrounded on three (3) sides by the Timonium Fairgrounds property. The MD light rail is just west beyond the Timonium Fairgrounds property and Timonium Rd. abuts the Property to the south. On the western side is an Infiniti service center and showroom addressed as 22 West Timonium Rd. On the eastern side is a Nissan and Kia service center.

The Infiniti service center on site has two (2) existing freestanding signs. (Pet. Ex. 1). In Case No.: 2013-0023-A, Petitioner was granted variance relief to continue to use one existing sign and to replace an antiquated sign with a new sign containing more modern corporate branding. Neither sign exceeded the permitted height. One sign was to identify new car sales while the other sign indicates where used vehicles are sold on site. The Nissan service center also has a freestanding sign. In Case No. 2021-0325-A the Kia service center was granted a variance for its own freestanding signs. Each of these three (3) cars manufacturers is separate from the other and each desires its own sign(s).

Petitioner testified that the Kia new car dealership is not located on the subject site and patrons of that separate location are required to travel to the subject site for service. The requested directional signage consisting of the words "Service" and "Express" above the service-bay entrance is necessary to properly direct these customers. (These signs are presently in existence.)

From the street view photographs, there is an opaque fence surrounding the Timonium Fairgrounds property that runs along W. Timonium Rd. just east of the Property. (Pet. Ex. 4). The fence blocks the view of the Kia service center. Additionally, the curvature of the road at the subject location and the existence of several trees along the Timonium Road side of the subject property further impedes motorist's view of the Kia service area. With the existing traffic along W. Timonium Rd., in combination with the opaque fence, Petitioner's Kia customers are in need of directional signs to direct them to proper service location. The proposed wall-mounted

directional signs will be 18 and 19 sq. ft. for greater visibility on a property that is deep and sets further back off the road than the adjacent Timonium Fairground property.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

The Property was previously adjudicated to be unique in Cases Nos.: 2013-0023-A and 2021-0325-A and its physical characteristics have not changed. As a result, that factual finding is applicable to this case under the doctrine of collateral estoppel. *Garrity v. Maryland State Bd. of Plumbing*, 447 Md. 359, 368 (2016). (See also *Colandrea v. Wilde Lake Community Ass'n, Inc.*, 361 Md. 391 (2000); *Washington Suburban Sanitary Commission v. TKU Associates*, 281 Md. 1, 18-19 (1977)).

If the BCZR, 450.4.3(a), Table 3(a)(v) were strictly enforced, the Petitioner would indeed suffer a practical difficulty and/or hardship. KIA customers would not be able to properly identify the Kia service center along W. Timonium Rd. I find that placement of the "Service" and "Express" signs will reduce the confusion from customers. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This is demonstrated by the lack of opposition from the community and the lack of negative comments from Baltimore County reviewing agencies.

With regard to the DPR ZAC comment that both a Landscape Plan and a Lighting Plan are not necessary due to the addition of one (1) sign where three (3) already exist on the Property, for

an automotive service center, and would be unduly burdensome on the Petitioner's business. As

a result, I will not include the DPR Comment as a condition in this Order.

THEREFORE, IT IS ORDERED, this 8th day of February, 2024, by the Administrative

Law Judge for Baltimore County, that the Petition for Variance from the BCZR, § 450.4.3(a) Table

of Sign Regulations 3(a)v to allow wall-mounted directional signs with sign areas/faces of 18

square feet and 19 square feet in lieu of the permitted 8 square feet for each directional sign (Signs

M and L) be, and it is hereby, **GRANTED**.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order

time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its

original condition.

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

ANDREW M. BELT

Administrative Law Judge

for Baltimore County

AMB/dlm

4



210 W. Pennsylvania Ave., Ste. 500

410-494-6285

Telephone #

Mailing Address

21204

Zip Code

PETITION FOR ZONING HEARING(S) To be filed with the Department of Permits, Approvals and Inspections To the Office of Administrative Law of Baltimore County for the property located at: which is presently zoned BM, MR-IM, BR-ME Address 20-22 West Timonium Road Deed References: 24815 / 00139 10 Digit Tax Account # 0805093025 Property Owner(s) Printed Name(s) Schaefer-Timonium LLC (SELECT THE HEARING(S) BY MARKING \overline{X} AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST) The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for: a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for a Variance from Section(s) SEE ATTACHED SHEET of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition) TO BE PRESENTED AT HEARING Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above petition(s), 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. Legal Owner(s) Affirmation: I / we do so 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 / these Petition(s). Legal Owners (Petitioners): Contract Purchaser/Lessee: SEE ATTACHED SHEET N/A Name #2 - Type or Print Name #1 - Type or Print Name- Type or Print Signature # 2 Signature #1 Signature City State Mailing Address State Mailing Address City **Email Address** Email Address Zip Code Telephone # Telephone # Representative to be contacted: Attorney for Petitioner: David H. Ka eski, Esquire David H. Karceski, Esquire Name- Type or Signature Venable LLP Signature Venable LLP

MD

State

Towson

Email Address

dhkarceski@venable.com

City

210 W. Pennsylvania Ave., Ste. 500

410-494-6285

Telephone #

Mailing Address

21204

Filing Date 12/28/2023 Do Not Schedule Dates:

Zip Code

MD

State

,dhkarceski@venable.com

Towson

Email Address

20-22 WEST TIMONIUM ROAD

ATTACHMENT TO PETITION FOR VARIANCE

1. Variance from Section 450.8. Table of Sign Regulations. 3(a)v of the Baltimore County Zoning Regulations to allow wall-mounted directional signs with sign areas/faces of 18 square feet and 19 square feet in lieu of the permitted 8 square feet for each directional sign (Signs M and L).

20-22 WEST TIMONIUM ROAD

ATTACHMENT TO PETITION FOR VARIANCE

Legal Owner:

Schaefer-Timonium LLC 2085 York Road Timonium, Maryland 21093-4242

By: William II Cohocfor In

Title: Managing Member

Email: whsofc@aol.com

Phone No.: (443) 377-3968



December 4, 2023

Description to Accompany Zoning Petition For Variance 20 West Timonium Road Election District 8

Beginning for the same at a point located on the north side of West Timonium Road, said point distant

North 84°51' West 101'+/-+/- from the intersection of the centerlines of West Timonium Road and West Aylesbury Road, thence running westerly along the north side of West Timonium Road,

- 1) by a curve to the left having a radius of 2,236.83 feet for an arc length of 184.4 feet to a point, thence leaving said north side of West Timonium Road and running the three following courses viz,:
- 2) North 19°01'16" West 314.4 feet to a point, thence
- 3) North 75°39'44" East 184.5 feet to a point, thence
- 4) South 19°01'16" East 286.75 feet to the place of beginning

Containing 1.26 acres of land more or less.

This description is provided for zoning petition application purposes only and it shall not be utilized for any other purpose.



Matis Warfield, Inc. 410.683.7004
909 Ridgebrook Road Suite 100
Sparks, MD 21152 www.matiswarfield.com

2023-0265-14

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS ZONING REVIEW OFFICE

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/ neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.*

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

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID

For Newspaper Advertising:	
Case Number: 2027-0265-A	
Property Address: 20-22 West Timonium Ruad	
Legal Owners (Petitioners): Schaefer - Timomium LLC	
Contract Purchaser/Lessee:	
PLEASE FORWARD ADVERTISING BILL TO:	
Name: Company/Firm (if applicable): Venable LLP	2
Address: Daviel H Kanceski	NOVES
210 West Pennsylvania Avenue Su, te 500	
Towson MD 21204	
Telephone Number: # 410 49 4 62 85	

^{*}Failure to advertise and/or post a sign on the property within the designated time will result in the Hearing request being delayed. The delayed Hearing Case will be cycled to the end of pending case files and rescheduled in the order that it is received. Also, a \$250.00 rescheduling fee may be required after two failed advertisings and/or postings.

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS ZONING REVIEW OFFICE

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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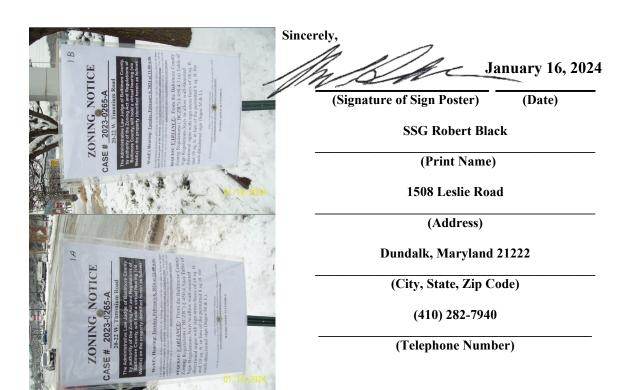
OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID

For Newspaper Advertising:
Case Number: 2027-0265-A
Property Address: 20-22 West Timonium Road
Legal Owners (Petitioners):Schaefer -T: monium LLC
Contract Purchaser/Lessee: M/A
PLEASE FORWARD ADVERTISING BILL TO:
Name: Company/Firm (if applicable): Venable LL ?
Address: David H Karceski
210 West Pennsylvania Avenue Suite 500
Towson MD 21204
Telephone Number: 44-410 494 6235

^{*}Failure to advertise and/or post a sign on the property within the designated time will result in the Hearing request being delayed. The delayed Hearing Case will be cycled to the end of pending case files and rescheduled in the order that it is received. Also, a \$250.00 rescheduling fee may be required after two failed advertisings and/or postings.

CERTIFICATE OF POSTING

R	2023-0265-A E: Case No.:
	Petitioner/Developer:
	Schaefer-Timonium, LLC
	Date of Hearing/Closing: February 6, 202
Baltimore County Department of Permits, Approvals and Inspections County Office Building, Room 111 111 West Chesapeake Avenue Towson, Maryland 21204	
Attn: Jeff Perlow:	
Ladies and Gentlemen:	
This letter is to certify under the penalties of perjuposted conspicuously on the property located at:	
20-22 W Timonium Road	SIGNS 1A & 1B
	nuary 16, 2024
The sign(s) were posted on(Mo	nth, Day, Year)



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director DATE: January 9, 2024

Department of Permits, Approvals

FROM: Vishnu Desai, Supervisor

Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting

For January 9, 2024 Item No. 2023-0265-A

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

DPW-T: N/C

DPR: N/C

Landscape: If Zoning Relief is granted a Landscape Plan is required per the requirements of the Landscape Manual. A Lighting Plan is also required.

Rec & Parks: N/C & No Greenways affected

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Maureen E. Murphy; Chief Administrative Law Judge

Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and

Sustainability (EPS) - Development Coordination

DATE: January 9, 2023

SUBJECT: DEPS Comment for Zoning Item # 2023-0265-A

Address: 20 22 W TIMONUM RD Legal Owner: Schaefer-Timonium, LLC

Zoning Advisory Committee Meeting of January 9, 2024.

<u>X</u> The Department of Environmental Protection and Sustainability has no comment on the above-referenced zoning item.

Additional Comments:

Reviewer: Earl D. Wrenn

BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

TO: C. Pete Gutwald DATE: 1/8/2024

Director, Department of Permits, Approvals and Inspections

FROM: Steve Lafferty

Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

Case Number: 2023-0265-A

INFORMATION:

Property Address: 20-22 West Timonium Road

Petitioner: Schaefer-Timonium LLC, c/o William Schaefer Jr., Managing Member

Zoning: BM, MR IM, BR ME

Requested Action: Variance

The Department of Planning has reviewed the petition for:

Variance:

1. From Section 450.8.Table of Sign Regulations.3(a)v of the Baltimore County Zoning Regulations (BCZR) to allow wall-mounted directional signs with sign areas/faces of 18 square feet and 19 square feet in lieu of the permitted 8 square feet for each directional sign (Signs M and L).

The subject site is an approximately 2.65 acre parcel located northwest of the signalized intersection of West Timonium Road and West Aylesbury Road in the Timonium area near the Timonium State Fairgrounds. The site is improved with an automobile showroom, as well as multiple automobile service facilities for Nationwide Infiniti, Nationwide Nissan Kia, and associated surface parking. The existing one-story automobile service facility for Nationwide Nissan Kia has an attached one-story service drive thru, which is the subject of the Variance request.

The subject site is surrounded primarily by commercial development. North of the subject site is the Timonium State Fairgrounds and Maryland State Fair Race Track. East of the subject site is the horse pavilions for the Timonium State Fairgrounds and Race Track, as well as a bank, gas station, and car wash at the corner of York Road and West Timonium Road. South of the subject site is a Walgreens, a bank, and a shopping center with various commercial stores, including a grocery store. West of the subject site is parking for the Timonium State Fairgrounds, as well as lightrail tracks, a granite countertop store, a vacant former restaurant building, and a gas station.

The site is within the boundary of the Hunt Valley/Timonium Master Plan, adopted October 19, 1998. The Plan seeks to provide guidance on development of the employment and commercial areas. The plan highlights a number of issues within the plan area, including the need for improving the visual quality of the York Road corridor; the need for improving landscaping to bring existing commercial properties along the York Road corridor into conformance with the Landscape Manual; and more. While the Plan warns against sign clutter along York Road, it does not address existing signage.

Per the petition, the Petitioners are seeking a Variance for the existing "Service" and "Express" wall-mounted signs on the west elevation of the service drive-thru. Based on Google Streetview, the signs have existed since at least 2008, which is the earliest Google Streetview of the subject site. The Department of Planning contacted the representative for the petition via telephone on January 5th, 2024 seeking additional information on the request. During the phone call, the representative confirmed that the signs are existing and that no work is proposed to them.

The signs are existing and have been in place for many years. Further, they direct customers to the appropriate service bays. As such, the Department of Planning has no objections to the requested Variance relief.

For further information concerning the matters stated herein, please contact Taylor Bensley at 410-887-3482.

Division Chief:

Prepared by:

Krystle Patchak

SL/JGN/KP

c: David Karceski, Esquire
David Birkenthal, Community Planner
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County

Real Property Data Search () Search Result for BALTIMORE COUNTY

View Map View GroundRent Redemption View GroundRent Registration Special Tax Recapture: None Account Identifier: District - 08 Account Number - 0805093025

Owner Information

SCHAEFER-TIMONIUM LLC Use: **Owner Name:**

COMMERCIAL

Principal Residence: NO

Mailing Address: 2085 YORK RD Deed Reference: /24815/ 00139

TIMONIUM MD 21093-4242

Location & Structure Information

Premises Address: 20 TIMONIUM RD Legal Description:

TIMONIUM MD 21093-0000 20-22 TIMONIUM RD NS

540 W YORK RD

Subdivision: Section: Block: Lot: Assessment Year: Plat No: Map: Grid: Parcel: Neighborhood: 0060 0005 0095 20000.04 0000

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use

1980 42,235 SF

ExteriorQualityFull/Half BathGarageLast Notice of Major Improvements StoriesBasementType AUTO SHOWROOM/

Value Information

	Base Value	Value As of 01/01/2023	Phase-in Assessments	
			As of 07/01/2023	As of 07/01/2024
Land:	2,517,500	2,517,500		
Improvements	2,662,200	2,617,700		
Total:	5,179,700	5,135,200	5,135,200	5,135,200
Preferential Land:	0	0		

Transfer Information

Date: 03/24/2005 Price: \$0 Seller: SCHAEFER WILLIAM H,JR Type: NON-ARMS LENGTH OTHER Deed1: /24815/ 00139 Deed2: Seller: EWING CALEB C,JR BOWEN Date: 08/31/1990 Price: \$1,700,000 VIRGINIA Deed1: /08584/ 00179 Deed2: Type: ARMS LENGTH IMPROVED

Price: Date: Seller: Deed1: Deed2: Type:

Exemption Information

07/01/2023 07/01/2024 Partial Exempt Assessments: Class 000 0.00 County: 000 0.00 State: 0.00|0.00 0.00|0.00 Municipal:

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

2023-0265-A

