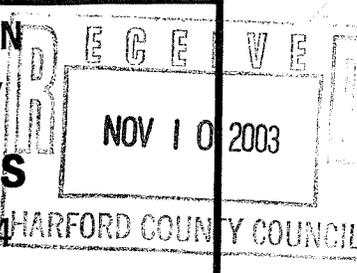


**STANDARD APPLICATION**  
**Harford County**  
**Board of Appeals**

Bel Air, Maryland 21014



Case No. 5385  
 Date Filed 11-7-03  
 Hearing Date \_\_\_\_\_  
 Receipt \_\_\_\_\_  
 Fee \$700

*Shaded Areas for Office Use Only*

| Type of Application   | Nature of Request and Section(s) of Code  |
|---|---|
| <input type="checkbox"/> Administrative Decision/Interpretation<br><input type="checkbox"/> Special Exception<br><input type="checkbox"/> Use Variance<br><input checked="" type="checkbox"/> Change/Extension of Non-Conforming Use<br><input type="checkbox"/> Minor Area Variance<br><input type="checkbox"/> Area Variance<br><input checked="" type="checkbox"/> Variance from Requirements of the Code<br><input type="checkbox"/> Zoning Map/Drafting Correction | CASE 5385 MAP 55 TYPE Expansion of a Non-Conforming Use and variance<br>ELECTION DISTRICT 3 LOCATION 1908R Bel Air Road, Fallston, Md. 21047<br>BY Raymond and Claire Santiago c/o Unique Auto Body Inc.<br>Appealed because an expansion of a non-conforming structure and a variance pursuant to Sections 267-21 and Section 267-21B of the Harford County Code to exceed 50% of the gross square footage in use at the time of the non-conformity in a B3 District requires approval by the Board. |

*NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.*

**Applicant/Owner (please print or type)**

Name Raymond and Claire Santiago Phone Number (w) 410-877-8797 (c) 410 688-0725  
 Address c/o Unique Auto Body, Inc.  
1908 R Bel Air Road, Fallston Maryland 21047  
*Street Number Street City State Zip Code*

Co-Applicant N/A Phone Number \_\_\_\_\_  
 Address \_\_\_\_\_  
*Street Number Street City State Zip Code*

Contract Purchaser N/A Phone Number \_\_\_\_\_  
 Address \_\_\_\_\_  
*Street Number Street City State Zip Code*

Attorney/Representative Albert J.A. Young, Esquire Phone Number 410-838-5500  
 Address Brown, Brown & Brown, P.A.  
200 South Main Street Bel Air Maryland 21014  
*Street Number Street City State Zip Code*

**Land Description**

Address and Location of Property 1908 R Bel Air Road, Fallston, Maryland 20147

Subdivision 3258 Lot Number 19

Acreage/Lot Size 1.542 ± Election District Third Zoning B3

Tax Map No. 55 Grid No. 3D Parcel 143 Water/Sewer: Private water Public sewer

List ALL structures on property and current use: Existing Auto Body Repair Shop, existing building is 3,550 square feet

Estimated time required to present case: 1 day

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? No

Is this property located within the County's Chesapeake Bay Critical Area? Yes      No X

If so, what is the Critical Area Land Use designations: N/A

Is this request the result of a zoning enforcement investigation? Yes      No X

Is this request within one (1) mile of any incorporated town limits? Yes      No X

**Request**

The Applicants request an expansion of a non-conforming use, to build a 2400 square foot addition onto their existing auto body repair shop. The Applicants are also requesting a Variance from Section 267-21 (B), of the Code, which requires that addition not exceed 50% of the gross square footage in use at the time of the creation of the nonconformity.

The applicants propose to build an addition that is more than 50% of the gross square footage of the existing building, and therefore request an expansion of their non-conforming use and Variance from the above Code Section.

**Justification**

The Applicant's expansion of a non-conforming use should be granted, because the requirements of Section 267-21 (A), (C), and (D) are satisfied. The proposed expansion does not change to a less-restricted, more-intense use, the extension does not violate the height restriction

of 35 feet, maximum, for the B-3 zoning district, and the extension will not adversely affect the adjacent properties, traffic patterns, or neighborhoods. The Applicant's request for a variance from the requirements of Section 267-21(B) should also be granted per Section 267-11. SEE ATTACHED.

*If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)*

## ATTACHMENT

Applicants: Claire and Raymond Santiago  
c/o Unique Auto Body, Inc.  
1908 R Bel Air Road  
Fallston, Maryland 21047  
Map: 55, Parcel: 143

### Expansion of a Non-Conforming Use and a Variance from a Code Provision

#### Justification:

Pursuant to Harford County Zoning Code (the "Code"), §§ 267-21 and 267-11, respectively, the applicants are requesting an expansion of a non-conforming use to erect a 2400 square foot addition onto an existing building and a variance from the requirements of § 267-21B of the Code, which requires that an enlargement or extension of a non-conforming use not exceed fifty percent (50%) of the gross square footage in use at the time of the creation of the non-conformity.

The subject property is deemed a non-conforming use because the existing building, built in 1955, does not meet the 20 foot side-yard setback requirement, on the northeast side, for a motor vehicle repair shop in a B3 zoning district. The applicants seek to build the proposed addition on the southwest side of the existing building and will, therefore, not interfere with the non-conformity on the northeast side. In addition, the proposed extension will be over 58 feet from its side yard line and will be in complete compliance with the 20 foot side-yard setback. Even if the existing building complied with the 20 foot setback requirement on the northeast side, the addition would still be in compliance with the 20 foot setback requirement on the southwest side of the building.

The Applicants are requesting an expansion of their non-conforming use pursuant to § 267-21 of the Code. This request should be granted because the applicants are in compliance with subsections A, C, D and E, and are requesting a variance from subsection B. The proposed addition does not change the use of the property, it will remain a commercial use permitted in a B3 zoning district. The addition will not violate the 35 foot maximum height requirement under the Code, and will not adversely affect traffic, adjacent properties or neighborhoods. The use of the property will still be an auto body paint and repair shop and there will be no increase in traffic due to the expansion which will be used only as additional workspace for the applicants.

Section 267-11 outlines the standard which is to be applied when ruling on requests for variances from the requirements of the Code. A variance from a provision of the Code may be granted if the property is so unique that literal enforcement of the Code would result in practical

difficulty or unreasonable hardship for the property owner, and if the variance will not be substantially detrimental to adjacent properties. The legal standard to be applied with regard to a request for a variance from a Code provision is analogous to that which applies when an applicant is seeking an area variance. The lesser, "practical difficulty," standard should be applied, rather than the "unreasonable hardship" standard that is utilized with requests for use variances.

The plat that includes the subject property, plat 195/92, entitled "Subdivision of Property Near Lynch's Corner, Harford County, Maryland," illustrates that the lots, at this time, were narrow, twenty-five (25) foot lots that predate the Code. The subject property is improved by an existing building that was constructed in 1955, which also predates the Code. This property is located on West Grove Avenue, which is actually just a "paper street." "Paper streets" are a very unique element of land use in Harford County. All of these factors pertaining to the subject property illustrate its uniqueness when compared to other properties in Harford County and represent some unique attributes of land use that are currently found within the County.

The other factor considered by the County when ruling on variance requests is whether the requested variance, if granted, will have an adverse impact on the adjoining properties. In this case, granting the requested variance will not be substantially detrimental to the adjacent properties. The majority of adjoining properties are used for commercial purposes and the addition to the subject property will do nothing to harm these businesses or commercial uses. The addition will be connected to the existing 3,550 square foot auto repair building and will be over 58 feet from the southwest side yard property line, well in compliance with the Code's 20 foot side yard setback requirement. Therefore, there will be no adverse impact to the property adjacent to the addition. Attached to this application are letters of support and consent from some of the adjoining property owners.