

STANDARD APPLICATION

Harford County Board of Appeals
Bel Air, Maryland 21014

NOV 23 2007

Case No. 5607
Date Filed 6/1/07
Hearing Date _____
Receipt _____
Fee \$400.00

Shaded Areas for Office Use Only

Type of Application

Nature of Request and Section(s) of Code

- Administrative Decision/Interpretation
- Special Exception
- Use Variance
- Change/Extension of Non-Conforming Use
- Minor Area Variance
- Area Variance
- Variance from Requirements of the Code
- Zoning Map/Drafting Correction

CASE 5607 MAP 24 TYPE Special Exception and Variance
 ELECTION DISTRICT 04 LOCATION 1339 Knopp Road, Jarrettsville 21084
 BY Michael and Deborah Bedsaul
 Appealed because a special exception pursuant to Sec. 267-53H(1) and 267-53D(1) of the Harford County Code to allow a plumbing business and to store equipment and a variance pursuant to Sec. 267-34C Table II of the Harford County Code to allow the existing buildings to maintain a 5 foot side yard setback (40 feet required) in the AG 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 Michael E. and Deborah J. Bedsaul Phone Number Call Attorney

Address 1339 Knopp Road, Jarrettsville, Maryland 21084
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 Edwin G. Carson, Esquire and Robert S. Lynch, Esquire Phone Number (410) 879-2222

Address Stark and Keenan, P.A., 30 Office Street, Bel Air, Maryland 21014
Street Number Street City State Zip Code

Land Description

Address and Location of Property 1339 Knopp Road, Jarrettsville, MD 21084

Subdivision N/A Lot Number Par 2

Acreage/Lot Size 3.04 acres Election District 4th Zoning AG

Tax Map No. 24 Grid No. 3F Parcel 313 Water/Sewer: Private X Public

List ALL structures on property and current use: single-family dwelling, garage and storage shed.

Estimated time required to present case: One (1) hour.

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 X No

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

Request

See attached.

Justification

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 TO BOARD OF APPEALS APPLICATION

Michael E. and Deborah J. Bedsaul

1339 Knopp Road, Jarrettsville, Maryland, 21084

Request:

A Special Exception pursuant to Section 267-53(D)1 of the Harford County Zoning Code.

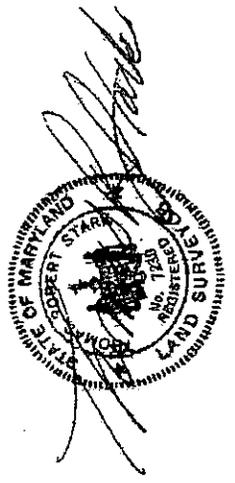
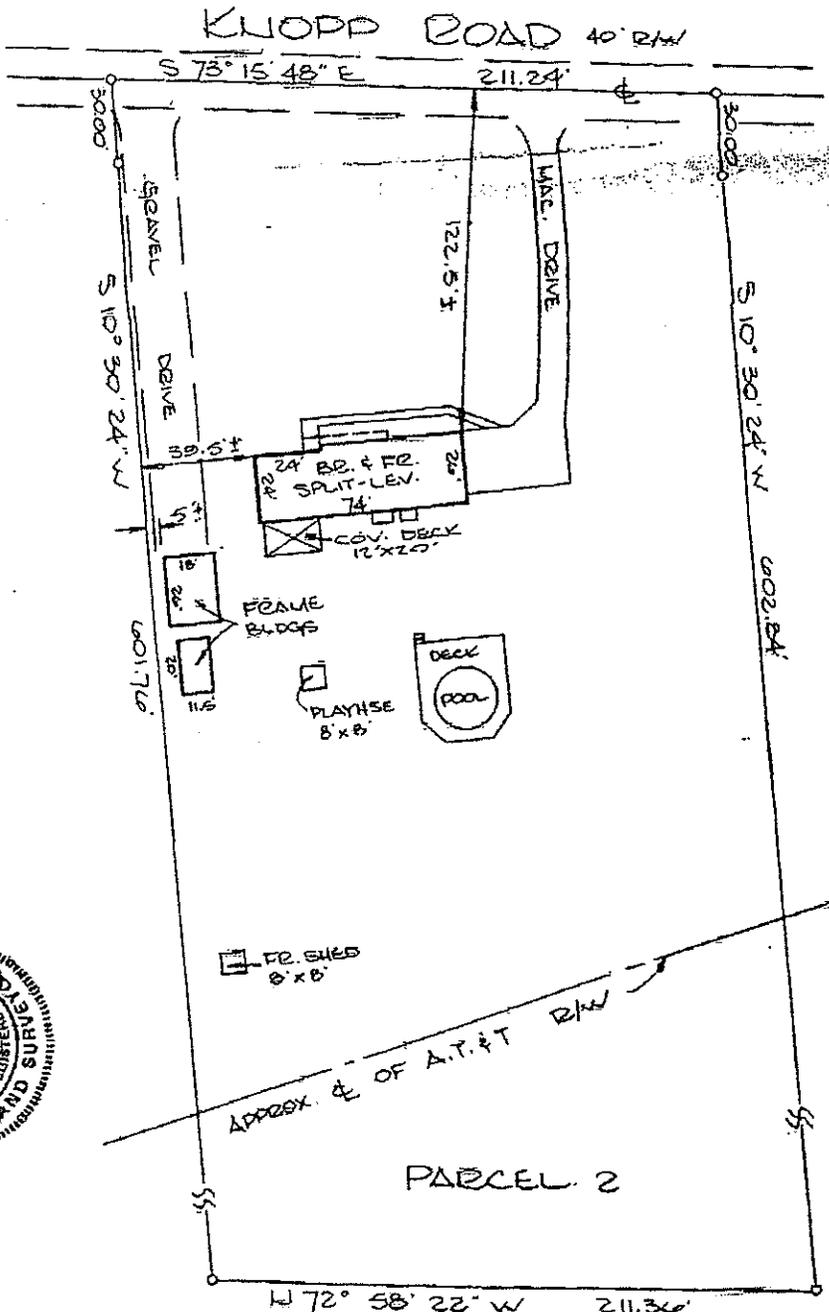
An area variance request from Section 267-34 Table II Agricultural District of the Harford County Zoning Code which requires a minimum side yard width of forty (40) feet for service uses in the Agricultural District. The Applicants request a thirty-five (35) foot variance for the existing buildings on the property (see attached site plan).

Justification:

The Applicants have been operating a neighborhood plumbing business on the subject property for the past seventeen (17) years. This business serves the local rural residential community and many of the surrounding neighbors are customers. The building from which the business is operated is heavily screened by a wood line and, more recently, the Applicants have planted an additional row of trees along the existing gravel driveway; and (1) by reason of the uniqueness of the property or topographical conditions, the literal enforcement of the Code would result in practical difficulty or unreasonable hardship; (2) the variance will not be substantially detrimental to adjacent properties; and the granting of the variance will not have a detrimental impact upon the neighboring community as the Applicants would be able to continue to provide a much needed service to the rural community.

I HEREBY CERTIFY TO THE LENDER AND PURCHASER THAT: (1) AN ON-SITE SURVEY WAS MADE PURSUANT TO THE RECORDED DESCRIPTION FOR THE PURPOSE OF LOCATING THE EXISTING BUILDING IMPROVEMENTS ONLY; (2) THAT SAID IMPROVEMENTS ARE, TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, LOCATED AS SHOWN WITHIN THE OUTLINES OF THE LOT UPON WHICH THEY ARE ERECTED; (3) THAT THERE ARE NO ENCROACHMENTS ONTO ANY ADJOINING PREMISES, STREETS OR ALLEYS OF SAID IMPROVEMENTS, EXCEPT AS SHOWN HEREON AND (4) THAT, BASED UPON THE FLOOD INSURANCE RATE MAP NO. 24004D 0034 A DATED 03/02/03, THE SUBJECT PROPERTY APPEARS TO BE LOCATED IN ZONE C, AREA OF MINIMAL FLOODING.

03-325



PLAT BOOK REF: 25/14
 NOTE: AN ACCURATE LOCATION OF ANY FENCES WHICH MAY BE LOCATED ON OR NEAR THE LOT LINES CANNOT BE DETERMINED WITHOUT BENEFIT OF A COMPLETE BOUNDARY SURVEY. THE COURSES AND DISTANCES SHOWN HEREON ARE AS PER RECORDED PLAT AND/OR DEED DESCRIPTION ONLY. THIS PLAT DOES NOT REPRESENT A BOUNDARY SURVEY BY T. R. STARK & ASSOCIATES, INC. AND IS NOT TO BE USED TO ESTABLISH BOUNDARY LINES OR CORNERS.

LOCATION OF EXISTING IMPROVEMENTS
 PARCEL 2, "PARCELS OF LAND TO BE
 CONVEYED BY THOMAS A. MOORE"
 LOCATED: 1339 KNOPP ROAD
 FOURTH ELECTION DISTRICT
 HARFORD COUNTY, MARYLAND

TR T. R. STARK & ASSOCIATES, INC.
 LAND SURVEYORS
 2003 GALEWAY ROAD • FOREST HILL, MD 21086

DR. BY: DGM	CK. BY: TRS	
DATE	SCALE	FILE NO.
APRIL 27, 1992	1" = 50'	4280-2

DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

January 3, 2008

STAFF REPORT

BOARD OF APPEALS CASE NO. 5607

APPLICANT/OWNER: Michael E. Bedsaul
1339 Knopp Road, Jarrettsville, Maryland 21084

Co-APPLICANT: Deborah J. Bedsaul
1339 Knopp Road, Jarrettsville, Maryland 21084

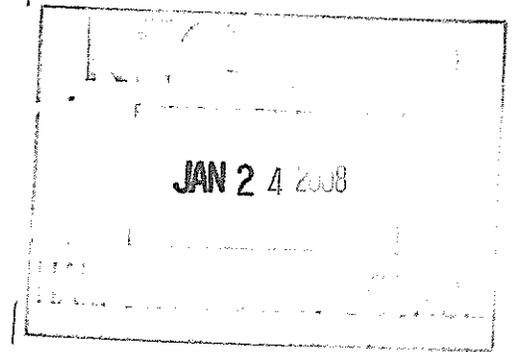
REPRESENTATIVE: Edwin G. Carson, Esquire and
Robert S. Lynch, Esquire
Stark and Keenan, P.A.,
30 Office Street, Bel Air, Maryland 21014

LOCATION: 1339 Knopp Road
Tax Map: 24 / Grid: 3F / Parcel: 313
Election District: Four (4)

ACREAGE: 3.04 acres

ZONING: AG/Agricultural

DATE FILED: June 1, 2007



APPLICANT'S REQUEST and JUSTIFICATION:

See Attachment 1.

CODE REQUIREMENTS:

The Applicants are requesting a Special Exception pursuant to Section 267-53H(1) and 267-53D(1) of the Harford County Code to allow a plumbing business and to store equipment and a

∞ Preserving Harford's past; promoting Harford's future ∞

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Board of Appeals Case Number 5607

Michael & Deborah Bedsaul

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variance pursuant to Section 267-34C, Table II of the Harford County Code to allow the existing building to maintain a 5 foot side yard setback (40 feet required) in the AG/Agricultural District.

Section 267-53D(1) of the Harford County Code reads:

D. Motor Vehicle and related services.

- (1) *Commercial vehicle and equipment storage and farm vehicle and equipment sales and service. These uses may be granted in the AG District, and commercial vehicle and equipment storage may be granted in the VB District, provide that:*
- (a) *The vehicles and equipment are stored entirely within an enclosed building or fully screened from view of adjacent residential lots and public roads.*
 - (b) *The sales and service of construction and industrial equipment may be permitted as an accessory use incidental to the sales and service of farm vehicles and equipment.*
 - (c) *A minimum parcel area of two (2) acres shall be provided.*

Section 267-53H(1) of the Harford County Code reads:

H. Services. [Amended by Bill No. 97-54]

- (1) *Construction services and suppliers. These uses may be granted in the AG and VB Districts, provided that a buffer yard ten feet wide shall be provided around all outside storage and parking areas when adjacent to residential lot or visible from a public road.*

Enclosed with the report is a copy of Section 267-51 and 267-52 of the Harford County Code (Attachment 2).

Enclosed with the report is a copy of Section 267-34C, Table II of the Harford County Code (Attachment 3).

Section 267-9I of the Harford County Code will be discussed in detail later in the report.

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicant's property is located east of Old Federal Hill on the south side of Knopp Road. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 4 and 5).

The subject property is located outside of the Development Envelope. The predominant land use designation in this area of the County is Agricultural. The Natural Features Map reflects Stream Systems, Deer Creek Scenic River Districts, Sensitive Species Project Review Areas and

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Michael & Deborah Bedsaul

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Agricultural Preservation Districts and Easements. The subject property is designated as Agricultural which is defined by the 2004 Master Plan as:

Agricultural – Areas where agriculture is the primary land use, but where development rights are available. Residential development is possible at a density of 1.0 dwelling unit for every 10 acres. Commercial uses within this area are intended to serve the agriculture industry or residents of the area while maintaining the character of the surrounding countryside.

Enclosed with the report are copies of the 2004 Land Use Map, the Natural Features Map and a copy of the Jarrettsville Community Area Map (Attachments 6, 7, and 8).

Land Use – Existing:

The existing Land Uses conform to the overall intent of the 2004 Master Plan. The predominant land use in this area of the County is Agricultural which includes cropland, pastureland and large areas of dense woodland. There are numerous single family residential lots in the immediate area. The topography ranges from rolling to steep especially near the stream valleys. A topography map and a copy of the aerial photograph are enclosed with the report (Attachments 9 and 10).

The lot fronts on the south side of Knopp Road. It is rectangular in shape and approximately 3.04 acres in size. The topography of the lot slopes down from front to rear and from right to left. Parts of the lot are gently sloping to rolling especially in the area of the improvements. Improvements include a single family dwelling with a 2-car attached garage on the left side of the dwelling. Attached to the rear of the dwelling are two wooden decks. There is a 3-bay garage located to the left and just to the rear of the dwelling and a second garage/pole building approximately 60 feet to the right and rear of the dwelling used for the plumbing business. The pool has been removed from the property. The property is nicely landscaped and all improvements appear to be well maintained. There are two driveway entrances. Along the right side of the property are existing evergreen trees ranging from 6 to 15 feet tall. It appears that the trucks and equipment used in the plumbing business as well as the employees park to the right side of the property and in front and along the left side of the garage. Site photographs, a topography map of the subject lot and aerial photographs are enclosed with the report (Attachments 11, 12 and 13).

Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. The predominant zoning classification is AG/Agricultural which includes the subject property. There is an area of B1/Neighborhood Business District at the corner of Knopp Road and Old Federal Hill Road. Enclosed with the report is a copy of the Zoning Map (Attachment 14).

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Zoning Enforcement History:

This Department received a complaint on January 17, 2006, that a plumbing business was being operated from the subject residence. The site inspection was conducted on January 19, 2006 and upon arrival the inspector observed 4 employees in a white van and company truck with the Bedsaul Heating and Air Conditioning logo on the sides. A pickup truck with the same logo was already parked in the driveway. The employees went in and out of the pole building and shortly there after left in their own vehicles. The inspector contacted the owner by phone and advised him of the complaint and violation. A letter dated February 6, 2006 was sent explaining the nature of the complaint and violation as well as suggesting that he set up a meeting to discuss their situation. A pre-application meeting was held on June 19, 2006. The permit issued for the garage/pole building was conditioned that it could not be used for commercial purposes. The Board of Appeals Application was filed on June 1, 2007. A violation notice was filed on October 18, 2007. On November 19, 2007 the application was amended to request all of the necessary Special Exceptions and Variances for the use of the property. Enclosed with the report are copies from of the violation file for informational purposes only (Attachment 15).

SUMMARY:

The Applicants are requesting a Special Exception pursuant to Section 267-53H(1) and 267-53D(1) of the Harford County Code to allow a plumbing business and to store equipment and a variance pursuant to Section 267-34C, Table II of the Harford County Code to allow the existing buildings to maintain a 5 foot side yard setback (40 feet required) in the AG/Agricultural District.

Section 267-53D(1):

D. Motor Vehicle and related services.

- (1) Commercial vehicle and equipment storage and farm vehicle and equipment sales and service. These uses may be granted in the AG District, and commercial vehicle and equipment storage may be granted in the VB District, provide that:*

The property is zoned AG/Agricultural

- (a) The vehicles and equipment are stored entirely within an enclosed building or fully screened from view of adjacent residential lots and public roads.*

The Applicants operate a plumbing business from the subject property. The vehicles and equipment according the aerial photograph are stored to the right side of the property in the driveway in front of the garage/pole building and to the left and rear of the building as well. It does not appear that all the vehicles would fit into the building. Full screening of the vehicles would be difficult. According to the violation file the Applicant has at least 2 pickup trucks and a van devoted to the business. The aerial photographs show a small dump truck with trailer and

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Michael & Deborah Bedsaul

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backhoe. To the rear of the building was a skid loader. The building contains supplies used in the plumbing business. There are also 4 employees that meet at the site leaving their vehicles at this property. The Applicant has not provided a complete list of equipment and vehicles.

- (b) *The sales and service of construction and industrial equipment may be permitted as an accessory use incidental to the sales and service of farm vehicles and equipment.*

Not applicable to the request.

- (c) *A minimum parcel area of two (2) acres shall be provided.*

The subject property is approximately 3.04 acres in size.

Section 267-53H(1):

H. *Services. [Amended by Bill No. 97-54]*

- (1) *Construction services and suppliers. These uses may be granted in the AG and VB Districts, provided that a buffer yard ten feet wide shall be provided around all outside storage and parking areas when adjacent to residential lot or visible from a public road.*

The subject property is zoned AG/Agricultural. The building is only 5 feet from the property line. The Applicants have not shown how they can fully screen the outside storage and parking area.

Section 267-9I:

- (1) *The number of persons living or working in the immediate area.*

There are numerous residences on relatively small lots along Knopp Road. The intensity of this use is not appropriate on this property. The use at this location may have an adverse impact on people living in the area.

- (2) *Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.*

The property fronts on the south side of Knopp Road which is a paved County road. Knopp Road, in the area of the subject property, slopes down from west to east. Sight distance looking west is limited. Sight distance looking east is good.

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- (3) *The orderly growth of the neighborhood and community and the fiscal impact on the county.*

The intensity of the operation is not appropriate for this property, therefore the proposal is not consistent with the orderly growth of the neighborhood.

- (4) *The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.*

The building used for the business is only 5 feet from the adjacent property. Because this area contains numerous residential dwellings close to this property, noise may be an issue.

- (5) *Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.*

The Harford County Sheriff's Office and the Maryland State Police will provide police protection. The Jarrettsville and Forest Hill Volunteer Fire Departments will provide fire protection and emergency service. The property is served by a private well and septic system. A company of the Applicant's choice will handle trash collection.

- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

The Department finds that the proposal is not consistent with accepted planning principles.

- (7) *The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.*

The proposal should have no impact on any of the uses listed in this subsection.

- (8) *The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

The proposed use on this property is not consistent with the Master Plan.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

The proposal should have no impacts on surrounding natural features provided all fluids used for the vehicles, equipment and business are properly contained.

- (10) *The preservation of cultural and historic landmarks.*

The request should not impact any cultural or historic landmarks.

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Michael & Deborah Bedsaul

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Variance:

The Code pursuant to Section 267-34C, Table II requires the existing building to maintain a 40 foot setback. The existing building is only 5 feet from the property line.

Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the applicant must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

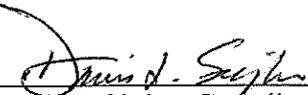
The Department finds that the subject property is not unique. The property has a configuration and topography similar to other properties in the area. The Applicants obtained a permit for the garage/pole building in 1992, permit number 92104B0230. The permit was conditioned that the building was not to be used for any commercial purposes. Further the building was to be 10 feet from the side property line. The building was located 5 feet from the line. The Applicant has been able to build another building on the property and meet the setback requirements. Enclosed with the report is a copy of the permit and site plan (Attachment 16).

Conclusion:

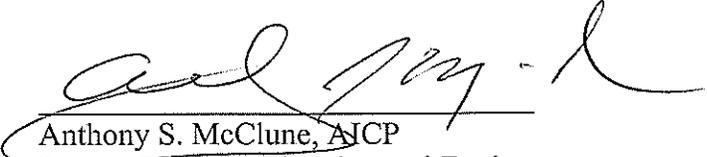
The Department finds that the request is not appropriate at this location and there is no justification for the requested variance.

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the Special Exceptions and variance be denied.



Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/jf