

BOARD OF APPEALS CASE NO. 4835

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BEFORE THE

APPLICANT: Samuel J. Spicer, Jr.

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ZONING HEARING EXAMINER

REQUEST: Special Exception and variance to park a commercial vehicle in the Agricultural District; 1519 Ryan Road, Fallston

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 8/12/98 & 8/19/98

HEARING DATE: October 7, 1998

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Record: 8/14/98 & 8/21/98

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Samuel J. Spicer, Jr., is requesting a Special Exception pursuant to Section 267-53(D)(1) of the Harford County Code, to park a commercial vehicle on the subject parcel and a variance to Section 267-53(D)(1)(c) to the requirement that the parcel contain minimum lot area of 2 acres.

The subject parcel is located at 1519 Ryan Road in the Third Election District. The parcel is identified as Parcel No. 386 in Grid 2A on Tax Map 48. The parcel contains .71 acres, more or less, all of which is zoned Agricultural.

Ms. Mickey Spicer appeared and testified that her husband, Samuel Spicer, filed a request for a Special Exception to store a tractor on the subject parcel. The witness said that her husband does not bring the trailer home and will not store a trailer on the parcel nor does he intend to conduct sales or service of construction and industrial equipment on the parcel. The witness said that the tractor can be seen from Ryan Road as well adjacent residential lots. Ms. Spicer also testified that the tractor has not caused traffic problems in the past and that her husband desires to store the vehicle on the subject parcel in order to perform maintenance and service on the unit.

Mr. Samuel Spicer appeared and testified that he would like to store the tractor on the subject parcel to do service and maintenance to meet DOT regulations.

Mr. William Phillips appeared and testified that when the tractor is stored on the Applicant's property, it can be seen from Ryan Road as well as from his property, but that he did not feel storing the vehicle on the subject parcel would impact his property.

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Two area residents did appear and testify in opposition to the Applicant's request and said that the vehicle can be clearly seen from residential lots, can be seen from Ryan Road, that there are no natural barriers on the subject property to screen the vehicle, that when the Applicant warms the vehicle up, the noise disrupts their sleep and causes vibration. Opponents also expressed concern about environmental issues in that the properties in the area are on wells, in that the Applicant proposes changing oil and performing maintenance on the vehicle.

The Staff Report of the Department of Planning and Zoning recommends denial of the Applicant's request and provides:

"The Department of Planning and Zoning recommends that the requested variance and special exception be denied. As previously stated, Ryan Road is a small rural road. The area along Ryan Road contains single family dwellings located on smaller lots. The Applicant has not provided sufficient evidence that there are unique circumstances regarding the property to justify the requested variance."

CONCLUSION:

The Applicant is requesting a Special Exception to store a commercial vehicle in an Agricultural District pursuant to Section 267-53(D)(1), which provides:

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, provided that:

- (a) The vehicles and equipment are stored entirely within an enclosed building or are 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.

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The Applicant testified that he does not intend to sell or service construction and industrial equipment; therefore, Subsection (b)(1) is not applicable. The Applicant has also requested a variance to 267-53(D)(1)(c), which requires a minimum lot area of 2 acres for storage of a commercial vehicle.

The Harford County Code permits variances from the provisions or requirements of the Code provided that the Board finds:

- (1) By reason of uniqueness of the property or topographic conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship, and
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.

Section 267-53(D)(1)(a) requires that the commercial vehicle be enclosed in a building or fully screened from view of adjacent residential lots and public roads.

The Applicant did not introduce evidence that the vehicle will be enclosed or fully screened and, to the contrary, the applicant himself as well as the witness called by the Applicant said that the vehicle can be seen from both Ryan Road and residential lots. Likewise, two area residents who testified also said that the vehicle can be seen from Ryan Road as well as their residential lots. The Applicant has also requested a variance to the minimum two acre parcel area; however, the Applicant did not introduce evidence of uniqueness of the property or topographic which would result in practical difficulty or unreasonable hardship.

It is the finding of the Hearing Examiner that the Applicant has failed to meet the requirements of Section 267-53(D)(1) because the vehicle will not be enclosed in a building or screened from public roads or adjacent residential lots, nor has the Applicant introduced sufficient evidence to justify the reduction of the minimum area requirement of two acres.

Therefore, it is the recommendation of the Hearing Examiner that the requested Special Exception and variance be denied.

Date **NOVEMBER 2, 1998**

L. A. Hinderhofer
Zoning Hearing Examiner