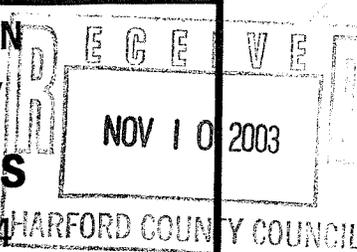


STANDARD APPLICATION
Harford County
Board of Appeals

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 <input type="checkbox"/> Special Exception <input type="checkbox"/> Use Variance <input checked="" type="checkbox"/> Change/Extension of Non-Conforming Use <input type="checkbox"/> Minor Area Variance <input type="checkbox"/> Area Variance <input checked="" type="checkbox"/> Variance from Requirements of the Code <input type="checkbox"/> Zoning Map/Drafting Correction	CASE 5385 MAP 55 TYPE Expansion of a Non-Conforming Use and variance ELECTION DISTRICT 3 LOCATION 1908R Bel Air Road, Fallston, Md. 21047 BY Raymond and Claire Santiago c/o Unique Auto Body Inc. 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.

JAMES M. HARKINS
HARFORD COUNTY EXECUTIVE



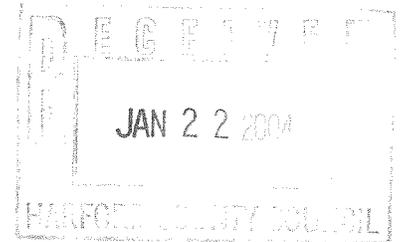
J. STEVEN KAI-ZIEGLER
DIRECTOR OF PLANNING & ZONING

JOHN J. O'NEILL, JR.
DIRECTOR OF ADMINISTRATION

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

January 16, 2004



STAFF REPORT

BOARD OF APPEALS CASE NO. 5385

APPLICANT/OWNER: Raymond and Claire Santiago
c/o Unique Auto Body, Inc.
1908 R Bel Air, Road, Fallston, Maryland 21047

REPRESENTATIVE: Albert J. A. Young, Esquire
Brown, Brown and Brown, P.A.
200 South Main Street, Bel Air, Maryland 21014

LOCATION: 1908 R. Bel Air Road, Fallston, Maryland 21047
Tax Map: 55 / Grid: 3D / Parcel: 143 / Lot: 19
Election District: Third (3)

ACREAGE: 1.542 acres

ZONING: B3/General Business District

DATE FILED: November 7, 2003

HEARING DATE: January 28, 2004

APPLICANTS' REQUEST and JUSTIFICATION:

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

Preserving our values, protecting our future

STAFF REPORT

Board of Appeals Case Number 5385

Raymond and Claire Santiago

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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 the requirements of Section 267-21 (B) should also be granted per Section 267-11.”

See Attachment 1.

CODE REQUIREMENTS:

The Applicants are requesting an expansion of a non-conforming structure and a variance pursuant to Section 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/General Business District, which requires approval by the Board of Appeals.

Section 267-21 of the Harford County Code reads:

“267-21. Enlargement or extension of non-conforming buildings, structures or uses.

The Board may authorize the extension or enlargement of a nonconforming use, with or without conditions. Provided that:

- A. The proposed extension or enlargement does not change to a less-restricted and more intense use.*
- B. The enlargement or extension does not exceed fifty percent (50%) of the gross square footage in use at the time of the creation of the non-conformity.*
- C. The enlargement or extension does not violate the height or coverage regulations for the district.*
- D. The enlargement or extension would not adversely affect adjacent properties, traffic patterns or the surrounding neighborhood.*
- E. The limitations, guides and standards set forth in Section 267-9I, limitations, guides and standards, are considered by the Board.”*

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

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Raymond and Claire Santiago

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LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicants' property is located north of Bel Air Road (US Route 1) on the north side of West Grove Avenue. A location map and a copy of the Applicants' site plan are enclosed with the report (Attachment 2 and 3).

The subject property is located in the Development Envelope. Along the north and south sides of the Route 1 corridor, the area is designated as High Intensity. To the north the area is designated as Agricultural/AG Residential. To the south of Route 1 there is a large area designated as Rural Residential. The subject property is located in the area of High Intensity found on the north side of US Route 1, which is defined by the 1996 Master Plan as:

High Intensity - Areas within the Development Envelope where residential development occurs at a density greater than 7.0 dwelling units per acre. Major retail commercial centers and highway-related businesses, such as automobile dealerships and home improvement centers, are examples of some of the most intensive uses associated with this designation.

Enclosed with the report are copies of portions of the 1996 Land Use Map and the Natural Resources Map (Attachments 4 and 5).

Land Use – Existing:

The existing land uses conform to the overall intent of the Master Plan. The area along the north and south sides of US Route 1 contains a mix of commercial and residential uses. These uses include auto sales and repair, professional and personal services, medical related uses and general retail. Enclosed with the report is a copy of the aerial photograph (Attachment 6).

The subject property is basically rectangular in shape. The topography of the site is considered level to gently sloping. The improvements consist of a metal and steel frame building that is used as an automobile repair shop. There is a fenced storage area for the cars awaiting repair and an office trailer that is to be removed if the request is approved. The area in front of the buildings is paved. There is a small area of trees along the west side and rear of the property. Enclosed with the report are copies of site photographs along with an enlargement of the aerial photograph (Attachments 7 and 8).

Zoning:

The zoning classifications in the area conform to the intent of the 1996 Master Plan. Residential zoning ranges from RR/Rural Residential to R2/Urban Residential. Commercial zoning includes B2/Community Business, B3/General Business and CI/Commercial Industrial districts. The

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Raymond and Claire Santiago

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subject property is zoned B3/General Business District as shown on the enclosed copy of the zoning map (Attachment 9).

SUMMARY:

The Applicants are requesting an expansion of a non-conforming structure and a variance pursuant to Section 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/General Business District, which requires approval by the Board of appeals.

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 Applicants 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.

Section 267-21:

“267-21. Enlargement or extension of non-conforming buildings, structures or uses.

The Board may authorize the extension or enlargement of a nonconforming use, with or without conditions. Provided that:

A. The proposed extension or enlargement does not change to a less-restricted and more intense use.

The existing structure is considered non-conforming since it does not meet the minimum side yard setback of 20-feet (10-foot existing). The current use of the property is permitted by right in the B3 District. The proposed use of the property and building will not change from its present use as an auto body repair shop. The proposed addition of 40-feet by 60-feet will be attached to the west side of the existing 3,550 square foot building that was originally built in the 1950s. The proposed addition will be located on the west side of the existing structure and away from the non-conforming side yard setback. The proposed addition will be 58-feet from the western side property line.

B. The enlargement or extension does not exceed fifty percent (50%) of the gross square footage in use at the time of the creation of the non-conformity.

The proposed addition is to be 40-feet by 60-feet, which is 2,400 square feet and will be located on the west side of the existing 3,550 square foot structure. The proposed addition will be greater than a 50% enlargement of the existing non-conforming structure. The existing use is permitted in the B3/General Business District. The existing building was originally built in the 1950s. The proposed addition will not decrease the existing 10-foot setback along the eastern

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Board of Appeals Case Number 5385

Raymond and Claire Santiago

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property line. This property has historically been used for motor vehicle repair. The Department finds that the subject property is unique based on its configuration and the location of the existing improvements.

C. *The enlargement or extension does not violate the height or coverage regulations for the district.*

The proposed building expansion will be a one-story structure and therefore will not exceed the 35-foot height requirement. The proposed overall building and impervious surface coverage will be well below the maximum permitted in the B3 District.

D. *The enlargement or extension would not adversely affect adjacent properties, traffic patterns or the surrounding neighborhood*

The proposed expansion will not adversely impact the adjacent properties or traffic in the area.

E. *The limitations, guides and standards set forth in Section 267-9I, limitations, guides and standards, are considered by the Board."*

See the following section.

Section 267-9I:

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

The neighborhood contains a variety of uses ranging from individual retail to shopping centers, auto related uses and professional and personal services. Residential uses are mainly found further to the north and south of US Route 1. The proposed request will not impact persons living or working in the immediate 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 subject property fronts at West Grove Road, which is approximately one block off of US Route 1. The proposed enlargement of the existing building and use will not adversely impact the traffic on West Grove Road or US Route 1.

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

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Raymond and Claire Santiago

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The proposed addition is in keeping with the intent of the Master Plan, the Zoning Code and planned uses along US Route 1. The use is a principle permitted use in the B3/General Business District.

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

The proposed expansion will not change the use of the property in regards to the items listed above.

(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 Fallston and Bel Air Volunteer Fire departments will handle the fire protection and emergency needs. Public sewer and a private well serve the project. The Applicants will continue to dispose of their trash, auto parts and other wastes as they have been doing in the past.

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

The proposal is 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 will have no impact on any of the uses listed in this section.

(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 existing use and proposed expansion of the building are part of the orderly growth of the neighborhood and the County.

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

There will be no effect on sensitive natural features or the environment, based on the enlargement of the existing building.

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

Not applicable to the request.

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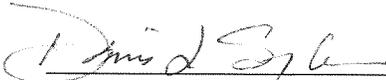
Raymond and Claire Santiago

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RECOMMENDATION and/or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the Applicants' request be approved subject to the following conditions.

1. The Applicants submit a site plan to the Department for review and approval through the Development Advisory Committee.
2. The existing office trailer shall be removed when the addition is completed.
3. The Applicant shall obtain all necessary permits and inspections for the addition.



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



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

DJS/ASM/ka