

**APPLICANTS:**  
**Aaron & Katherine Thompson**

**REQUEST: Special development approval  
and variance to convert a residence to  
professional offices without access to public  
sewer**

**HEARING DATE: December 14, 2005**

**BEFORE THE  
ZONING HEARING EXAMINER  
FOR HARFORD COUNTY  
BOARD OF APPEALS  
Case No. 5515**

**ZONING HEARING EXAMINER'S DECISION**

**APPLICANTS:** Aaron & Katherine Thompson

**LOCATION:** 1318 East Churchville Road, west of Fountain Green, Bel Air  
Tax Map: 41 / Grid: 4D / Parcel: 10  
Third (3rd) Election District

**ZONING:** RO / Residential Office

**REQUEST:** Special development approval, pursuant to Section 267-47.1, and a variance, pursuant to Section 267-45(E), of the Harford County Code, to allow conversion of a residence to professional offices without access to public sewer, in the RO District.

**TESTIMONY AND EVIDENCE OF RECORD:**

First testified Katherine Thompson, Co-Applicant. Mrs. Thompson described the Applicants' request as seeking permission to convert an existing dwelling located in a RO/Residential Office District from current residential uses to professional offices. Since the subject property does not have access to public sewer, the Applicants are also requesting a variance to Section 267-45(E) in order to allow the use with private sewer.

Ms. Thompson described the property as an approximately one-half (½) acre parcel improved by a one-story residential dwelling, containing one bath, and two bedrooms. The parcel is located on MD Route 22 just east of the Town of Bel Air between Moores Mill Road and MD Route 543.

The improvements on the property, which are approximately 1,000 square feet in area, are one story in height on the Route 22 side of the property, with a walk-out basement to the rear, or the north side of the property.

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The Applicants' propose to construct an approximately 1,000 foot addition to the rear of the existing house.

Mrs. Thompson described the property to the right, or east, of the subject property as being residentially used. To the left, or west, of the property is a parcel which is used as dental offices. Behind the subject property is open space which serves the Amyclae community. Mrs. Thompson stated that the nearest residential dwelling to the rear of the property, beyond the open space, is some distance removed from the subject property.

On the subject property is also located a detached two-car garage which the Applicants do not intend to use as part of their professional office use.

Mrs. Thompson, a practicing attorney, plans to use the upstairs portion of the converted facility for her law offices. The lower level with a separate entrance will be made available as separate tenant office space. Mrs. Thompson believes that normal hours of operation for the offices located in the building will be 9:00 a.m. to 5:00 p.m., Monday thru Friday.

Mrs. Thompson described eleven properties located between Moores Mills Road and Route 543, and on the north side of MD Route 22. All properties are zoned RO. Mrs. Thompson has performed a survey and found that her property would be the fifth to be converted to office space out of the eleven properties along that stretch. While public water is available to the subject property, public sewer is not. Public sewer is now located approximately 800 feet away on the north side of MD Route 22, which would require four to five lots being crossed before it could be brought to the subject parcel. Right-of-way and grading issues must be resolved before the connections can be made. The Applicants only available option is to bore under MD Route 22 to the south of the property to connect to a sewer line approximately 400 feet away. This is expensive, difficult, and would require installation of an ejector pump.

According to Mrs. Thompson, Harford County is not in favor of boring under Route 22, and prefers that all properties be serviced by public sewer which would run along the northerly side of MD Route 22.

A letter in the file as Attachment 14 from the Harford County Department of Public Works, Division of Water and Sewer, indicates that the closest public sewer is approximately 400 feet from the site. The cost to design and construct a connection to that system would be approximately \$60,000.00 "at a minimum."

Mrs. Thompson testified that the Harford County Health Department has approved the existing private septic system to service the proposed office use.

The Applicants have discussed their proposal with neighbors, and none has expressed any objection.

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Next for the Applicant testified Lisa Smith Collins, a Maryland licensed architect employed by The Design Firm, Inc. Ms. Collins stated that she has acted as a consultant to the Applicants and has designed the proposed office conversion.

Ms. Collins described the site as downward sloping from the MD Route 22 side to its back or northerly side. The improvements are one-story in the front, and come out of the ground in the rear, or north side. The addition to be constructed will add about 480 feet to each floor. The addition, however, would not be obvious from the MD Route 22 side, only from the sides and rear. The construction and design of the addition will be in keeping with that of the existing dwelling.

Mrs. Collins believes that the use is consistent with the Master Land Use Plan, and is consistent with surrounding properties. The design of the proposed use meets all design standards.

The existing garage, however, is located within existing required setbacks; therefore, the existing garage will not be used as a part of the business operation on the site. Ms. Collins stated that no additional exterior lighting is proposed. A landscape plan shall be submitted and complied with. Ms. Collins also stated that the Applicants have received from the State Highway Administration an entrance permit.

Ms. Collins confirmed the earlier statements by Mrs. Thompson concerning the distance to existing sewer lines. Approximately 800 foot of sewer line would be necessary to connect to existing lines on the north side of MD Route 22. No right-of-way exists and must be obtained. She believes to do so would be cost prohibitive, if even possible. Boring under MD Route 22 is possible in order to install a small diameter pressure line. The work would be very difficult and costly. Such a connection would be short term only, as Harford County has made its position known that it prefers properties to be connected to a sewer line which will eventually be installed along the northerly side of MD Route 22.

Next testified Anthony McClune for the Harford County Department of Planning and Zoning. Mr. McClune stated that the proposed use complies with the Harford County Master Plan, and is considered a medium intensity use. The proposal can meet all existing standards, including design and setback standards. Access to the property from MD Route 22 is very good. Mr. McClune finds no conflicts of any existing uses in the area. A dental office exists next-door, and Mr. McClune sees no adverse impact.

Mr. McClune stated that Harford County prefers that the Applicants eventually connect to the gravity sewer line which is approximately 800 feet away on the north side of MD Route 22. Eventually this line will be brought to the property. The County desires only one line, and does not wish to see a line bored under MD Route 22.

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Mr. McClune believes that three other property owners between Moores Mill Road and MD Route 543, all zoned RO and office uses, also use private sewer as they are similarly unable to connect to public sewer.

There was no testimony or evidence given in opposition.

### **APPLICABLE LAW:**

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

*“Variances.*

- A. *Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*
  - (1) *By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
  - (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.*
- B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

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The Applicants are requesting a variance to Section 267-45(E) of the Harford County Code which requires:

*“The project shall be served by public water supply and public sewerage disposal unless developing under guidelines for the conservation development as in Section 267-46.1.”*

The Applicants are requesting special development approval pursuant to Section 267-47.1 of the Harford County Code, to be discussed infra.

Section 267-9I of the Harford County Code is also applicable to this request and will be discussed below.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

The Applicants are owners of an approximately one-half acre, improved parcel located on the north side of MD Route 22 between Moores Mill Road and MD Route 543. This is an area which over the years has changed from almost wholly residential to an increasingly commercial/office use.

Of the eleven properties on this stretch of land, all at one time residentially used, approximately half are actually now being used for non-residential purposes.

The Applicants’ improvements consist of an approximately 1,000 square foot, two-story house, to which they plan to add an approximately 1,000 foot addition over two floors to the rear of the property. The actual front side of the house will change little if at all. As one approaches the house from the east or west one would be able to see the addition. However, the Applicants propose to construct the addition with regard to and in conformity with the design of the existing home. The proposed office would be used as a law office and other allowable uses in its RO District. All applicable standards, including setback and parking requirements, can be met. The use of the property would be consistent with others in the neighborhood and, indeed, it would be perhaps a more appropriate use than residential given the increase in traffic flow and congestion along MD Route 22.

It is accordingly found, at least preliminarily, that the use is one which is not adverse to the neighborhood, is in conformance with all applicable standards in the Harford County Master Plan, and should be an appropriate use of this parcel. Nevertheless, the review standards contained in Section 267-47.1, which govern retail and service uses in the RO District, must be examined. Those standards are as follows:

- A. *Purpose. To provide opportunities for conversion of existing residential structures of the development of new structures for retail, service and office uses in predominantly residential areas. The purpose of these development standards are to ensure that the structures and uses developed are compatible and in harmony with the neighboring residential communities.*

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*B. Development standards.*

(1) *Design. An architectural rendering of the building facade and elevation of the structure shall be submitted to the Board. The rendering shall demonstrate how the project meets the following standards and objectives:*

(a) *Redevelopment of existing residential structures. Redevelopment of existing residential structures shall be permitted provided that any physical modification is compatible and in harmony with the neighboring residential communities relative to architectural design, scale, building height and materials used in construction.*

An architectural rendering has been submitted by the Applicants. The renderings, and the testimony of the Applicants, reflect that the structure will retain its residential character and will be compatible with the existing improvements and others in the neighborhood.

(b) *Development of new buildings. New buildings developed for retail, service and office uses shall be designed to be compatible and in harmony with the neighboring residential communities relative to architectural design, scale building height and the materials used in construction. Elements to be considered in determining compatibility with neighboring residential communities shall include massing and building materials as well as cornice lines, window lines, roof pitch and entry.*

The addition to the structure will be compatible with existing and neighborhood improvements. The two-story addition will be located to the rear or northerly side of the property, and will take advantage of the sloping ground. There will be no change to the front facade of the improvements.

(c) *Design requirements. See Design Table VIIA.*

All required setbacks and design standards will be complied with. The garage is not in compliance, and cannot be used as part of the proposed office use on this property. An appropriate condition will be appended to this decision to assure compliance with this provision.

(2) *Maximum building coverage. The maximum building coverage shall be 40% of the lot, and the maximum impervious surface shall be 65% of the lot.*

The Applicants comply with this requirement.

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(3) *Use limitations. The uses permitted under this section shall comply with the following:*

(a) *Enclosed building. All uses permitted shall be conducted within an enclosed building, except parking, loading, unloading or as otherwise permitted.*

All uses will be conducted within this professional office. There will be no outside use or storage on-site.

(b) *Storage restriction. The outside storage of material or equipment shall not be permitted.*

There will be no outside storage. An appropriate condition will be added to this decision to assure compliance with this requirement.

(c) *Screening requirements. Parking, loading, unloading or other outdoor activity shall be screened from adjacent residential lots. Screening shall consist of landscaping, walls or solid fencing at least 6 feet high which shall be continuous to prevent visibility of the area.*

The property shall be screened from the adjacent residential property, to the east. The Applicants are proposing additional landscaping between the parking area and the west property line. The Applicants shall submit a landscaping plan to comply with these requirements, to be approved by the Harford County Department of Planning and Zoning.

(d) *Hours of operation. Uses shall only be permitted to operate between the hours of 6:00 a.m. 10:00 p.m., inclusive.*

The Applicants propose to comply with this requirement, and an appropriate condition to insure compliance will be recommended.

(4) *Landscaping. The landscaping shall, to be extent possible, preserve unique features and mature vegetation, especially large trees. Lawn and landscaped areas shall be maintained to preserve the residential character of the area. Landscaped buffer yards shall be planted in harmony with adjoining residences and in accordance with Section 267-28 of this chapter. A landscaping plan shall be submitted to the Board for review and approval.*

The Applicants' site plan shows both existing and proposed landscaping. It is found that proposed landscaping will preserve the residential character of the area.

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- (5) *Outside lighting. Outside lighting shall be so shaded, shielded, directed or maintained so that the lighting does not cause a glare or reflection on adjacent residential lots.*

No outside lighting is proposed.

- (6) *Ingress and egress. Any ingress or egress to the site shall be designed to provide the safest means of traffic flow.*

The design of the entrance onto Churchville Road is subject to State Highway requirements. The Applicants have testified that the State Highway Administration has granted an access permit.

Furthermore, Section 267-45 provides general design standards be applied to special development requests. The only applicable requirement of Section 267-45, not otherwise met by the Applicant, is sub-section (E) which states:

*“The project shall be served by public water supply and public sewerage disposal unless developing under guidelines for the conservation development as in Section 267-46.1.”*

The property is serviced by public water, and is not being developed under conservation development guidelines. Accordingly, unless the variance is granted, this request must fail as the property is not serviced by public sewer.

However, the Applicants have presented a compelling case for uniqueness so as to justify the granting of the variance requested. The property is one of eleven properties in a relatively isolated pocket along MD Route 22 between Moores Mill Road and MD Route 543. Many of these properties are now used for commercial/office purposes, as allowed in the RO District. However, because of the lack of County right-of-ways and grading issues, the public sewer line has not been extended to all of those properties. Nevertheless, and in spite of this, many of these properties support commercial uses without public sewer connection.

It would further be extraordinarily expensive for the Applicants to connect to public sewer by boring under MD Route 22. Indeed, such a hook-up is discouraged by Harford County which prefers that properties eventually be connected to the gravity line north of MD Route 22.

It is accordingly found, because of unique circumstances related to the location of the subject property, the increasingly congested and commercial nature of the area, and the immediate lack of public sewer, the Applicants suffer the hardship of not being able to use the property for professional offices. These professional offices are otherwise allowed by the appropriate zoning of the property and would be in compliance with the Master Plan.

It is further found that the granting of the variance will cause no adverse impact to any adjoining property or to the neighborhood.

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Accordingly, the Applicants have met the appropriate standard and a variance to the requirements of Section 267-45(E) will be recommended.

The Applicants' request is also subject to review under Section 267-9I, Limitations, Guidelines and Standards, as follows:

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

As stated above, this is an area which is increasingly changing to commercial/office use, particularly along MD Route 22, a highly traveled and increasingly congested artery. The proposed use shall have no adverse impact to persons living or working 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.*

Sight distances along MD Route 22 are good. There is no showing that the proposed use would adversely impact traffic.

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

The use proposed by the Applicants is a permitted use in the RO District. Professional offices are also compatible with other existing uses, and this use is in compliance with the Master Plan. There is no evidence of any adverse fiscal impact on the County.

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

The proposed use should generate no such impact.

- (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 Maryland State Police will provide police protection. The Bel Air Volunteer Fire Company will provide fire protection. Water is publicly provided. The septic system will be private.

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

It is found that the request is consistent with generally accepted planning principles and practices.

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

No such structures have been identified.

- (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 meets those purposes.

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

The proposed use will have no adverse impact on sensitive natural features or opportunities for recreation and open space. The propose use should have little or no environmental impact.

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

No such landmarks have been identified.

**CONCLUSION:**

For the above reasons, it is recommended that the requested special development and variance be granted, subject to the following conditions:

1. The Applicants shall obtain all necessary permits and inspections for the conversation of the existing structure and for the proposed addition.
2. The Applicants shall prepare a detailed site plan to be reviewed and approved through the Development Advisory Committee. The site plan shall include a final landscaping plan and lighting plan. The proposed use shall be screened from residential property on the easterly side. Additional landscaping shall be planted along the parking areas.
3. The Applicants shall comply with all Health Department regulations pertaining to the use of an on-site septic system.

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4. The existing garage may not be used for storage of office or commercial equipment. The garage may only be used for storage of maintenance and grounds keeping material similar to what would normally be stored by a residential homeowner.
5. There shall be no outside storage of material or equipment.
6. The office uses shall be open only between the hours of 6:00 a.m. and 10:00 p.m.
7. The Applicants shall connect to public sewer when it becomes available. The determination of this requirement shall be at the discretion of the Department of Public Works or the Health Department. If in the future a sewer petition is developed for this area the Applicants shall support the petition.

Date: January 11, 2006

ROBERT F. KAHOE, JR.  
Zoning Hearing Examiner

**Any appeal of this decision must be received by 5:00 p.m. on FEBRUARY 9, 2006.**