

**APPLICANTS:**  
**John Crouse & Andrea Strunkstein**

**REQUEST: Special Exception to permit  
commercial vehicle storage and construction  
services in the Agricultural District**

**HEARING DATE: September 3, 2008**

**BEFORE THE  
ZONING HEARING EXAMINER  
FOR HARFORD COUNTY  
BOARD OF APPEALS  
Case No. 5634**

### **ZONING HEARING EXAMINER'S DECISION**

**APPLICANTS:** John Crouse & Andrea Strunkstein

**LOCATION:** 618 Walters Mill Road, Forest Hill  
Tax Map: 25 / Grid: 3E / Parcel: 17 / Lot: 12  
Third (3<sup>rd</sup>) Election District

**ZONING:** AG / Agricultural District

**REQUEST:** Special Exceptions, pursuant to Sections 267-53H(1) and 267-53D(1) of the Harford County Code, to permit construction services and commercial vehicle storage in the Agricultural District.

#### **TESTIMONY AND EVIDENCE OF RECORD:**

The Applicants, John Crouse and Andrea Strunkstein, elected to represent themselves at the hearing. Ms. Strunkstein and Mr. Crouse explained that the business was started in 2002. Ms. Strunkstein started storing equipment on the property in 2004. She is the owner and operator of Hardscaping Unlimited, Inc. There is nothing related to the business in sight from the road. Due to the recent economic downturn, they have downsized the business. The only resident in the area that can view the equipment is a relative, who lives next door. The relative has no opposition. They have agreed to plant trees to block the relative's view.

At the current time, they have one (1) dump truck, one (1) pick up truck, one (1) skid loader that is usually stored on the job, and four (4) employees, which includes the owner. The only deliveries to the subject property is a fuel truck approximately every 6 weeks. The fuel is shared by the company and the farm. There are no other deliveries. There is no work performed at the farm. They do not store any hazardous or toxic chemicals. There is no noise related to the business. They have no office and conduct no retail sales or meetings with customers on the farm property.

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John Crouse, the Co-Applicant, stated that his family has owned the farm for 200 years. He has lived there 46 years. Part of the farm is rented to Kevin Smith, who uses farm tractors on the property and other equipment. Mr. Crouse does have his personal woodworking shop on the farm and accepts deliveries for that hobby. There have never been problems with any of the vehicles by the business. He noted that he has observed trucks from neighbors backing into the road. He enforces a 5 mile per hour speed limit on the gravel driveway. The Applicants explained that this is a family business and they requested that the special exception be approved as indicated by the Department of Planning and Zoning's Staff Report.

First for the Applicant testified Steve Nolan, President of CNA, Inc. CNA, Inc. is an engineering and surveying firm located in Forest Hill, MD. Mr. Nolan was offered and accepted as an expert site planner. Mr. Nolan believes that the plan is within the intent of the Master Land Use Plan of Harford County. He does not believe that it will impact traffic on Walters Mill Road.

On cross-examination by People's Counsel, Mr. Nolan confirmed that he did look at the equipment. He also reviewed the area and noted that there are some residences and some farms on Walters Mill Road where the subject business is located. He explained that if you turn left on Walters Mill Road coming out of the driveway, you have to cross into the other lane of traffic. The driveway has a 3 – 4 % slope. He did not know if any school buses drove on Walters Mill Road or made stops. He did not feel there are any sight distance issues. He also testified that if the vehicles are stored on the gravel lot, they cannot be viewed from the road. They are blocked by the barn. They are in view by one neighbor, who is a relative. The sight plan envisions planting trees to block that neighbor's view. Without additional screening, the equipment would be able to be viewed by the neighbor (relative) immediately next to the property.

Next for the Applicant testified Martin Strunkstein. He has been an employee for 7 years of Hardscaping Unlimited, Inc. He is the project manager/director of operations. At the present time, they have one dump truck and one pick-up truck, which he drives and uses as his personal vehicle. During the weekdays, the employees are usually out by 7:30 a.m. and back in by 4:30 p.m. They may work two Saturdays each month.

He is familiar with Walters Mill Road. He has never noticed or encountered any sight issues on Walters Mill Road while leaving the driveway. The speed limit is 30 miles per hour.

On cross-examination by People's Counsel, Mr. Strunkstein explained that his father is John Crouse. He has also lived on the property. In May 2007 they had about 10 employees. At that time, they had 3 dump trucks, 2 skid loaders and 1 mini-excavating machine. People's Counsel referred to Attachment No. 13 and Mr. Strunkstein confirmed that the equipment would be in view of the neighbor who is a relative. They will plant trees so that the neighbor cannot view the equipment.

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Mr. Strunkstein testified that in May 2007, he may have had to return during the day to obtain a skid loader. His children also stayed at the property with his mother. The skid loader may have to be moved or stored on the property if they are in between projects. That may happen twice per month.

Mr. Strunkstein has never had any accidents on Walters Mill Road while leaving or entering the property. He has never hit a mailbox. He has never torn up the neighbors' yards.

On re-direct, Mr. Strunkstein testified that are other vehicles that use Walters Mill Road such as farm equipment. Tractor trailers also haul milk from surrounding farms. He is able to pass a full-sized tractor trailer with his pick-up truck or dump truck.

Next for the Applicant testified Pat Crouse. Ms. Crouse was born on Walters Mill Road. She lives at 612 Walters Mill Road. Her house is before the driveway for the subject property at 618 Walters Mill Road. It is on the same side of the road. She retired in 2005. She is home most of the time. She explained that there is no disruption to her property from the business. She does not hear any noise from the related business. She does not view any of the equipment related to the business. She knows John Crouse has a 5 mile per hour speed limit on the driveway. His grandchildren are there and he is very cautious about the speed on the driveway. She has never heard any complaints from neighbors concerning the business, except one of the individuals who is present for the hearing.

Ms. Crouse testified that there are no problems with sight distance as the road is open both ways. She has never had any problem with sight distance or with any of the equipment from the business. There are no obstructions on Walters Mill Road that will cause sight issues. The driveway at 618 is flat. She explained that another neighbor's vehicle did tear up the lawn on her son's property.

People's Counsel declined cross-examination of Ms. Crouse.

For the Department of Planning and Zoning next testified Anthony McClune, Deputy Director. Mr. McClune confirmed that the property is zoned Agricultural, and the proposed use is consistent with the Harford County Master Land Use Plan.

The proposed special exception meets or exceeds all applicable Development Code requirements. Mr. McClune testified that the outside storage area must be screened. He recommended a double row of trees extending to the rear of the property to screen the storage and barn area. This will screen Walters Mill Road. The Applicants agreed to plant the trees for the screening recommended by Planning and Zoning.

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Mr. McClune reviewed Section 267-9I and found that there would be no adverse impact on individuals working or living in the area, or outlined in the Staff Report from Planning and Zoning. He explained that as long as the appropriate conditions are met, the Department of Planning and Zoning recommends that the special exception be granted. He said the Department will not agree to an expansion unless a pole barn is constructed.

Mr. McClune did not feel there would be any change in the Department's recommendation, based upon the recent decrease in the vehicles in use due to the recent economic downturn. The recommendation of Planning and Zoning was based on the size of the business at the time and the potential as proposed.

On cross-examination by the People's Counsel, Mr. McClune acknowledged that the Applicants can be required to come back for an expansion. In this case, they recommended the expansion in their decision, based upon construction of the pole barn. He acknowledged that special exceptions are handled both ways. He explained that the concern was the amount of outside storage and the need for the construction of a pole barn.

With respect to screening, he testified that there is no screening at the present time. He acknowledged that there is no exception to the screening requirement because the family member lives next door. He said that he would recommend that installation of trees 4 feet in height to provide a substantial amount of screening. The Department interprets 4 foot trees as meeting the "substantial" requirement.

On cross-examination by the Applicant, Mr. McClune acknowledged that he had not been back to the property since May 2007. He was there one week ago in preparation for the hearing and did not see any new landscaping vehicles. He also testified that his review of the sight distance was sufficient on Walters Mill Road.

People's Counsel called Conrad Gagnon in opposition to the request for a special exception. Mr. Gagnon lives directly across the street from the subject property. He said he lives in a rural residential area. He is upset to see a commercial business in the area. He testified he could not see the vehicles from his home. He could see the vehicles coming and going, which included a crew cab truck with a trailer. He felt this business had a negative impact on the community. He accepted the community as being agricultural, but not commercial. Mr. Gagnon agreed that the sight distance on Walters Mill Road is good, but noted there was a curve farther down the road. When the truck and trailer turn out, they would have to cross into the other lane of traffic. The speed limit is 30 miles per hour. There is no slope to the driveway at 618 Walters Mill Road.

Mr. Gagnon estimated that in May 2007, he would see the vehicles make 30 trips in and out in one day.

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On cross-examination, Mr. Gagnon acknowledged he has an inconsistent schedule. He has no set work schedule. He is not aware the land was zoned agricultural. He was not aware of other commercial businesses in the area. He has seen farm equipment on the road, but it is not unusual to see farm equipment. He does not know the status of other properties in the area. He also acknowledged that his company comes to his house to maintain his lawn. He also acknowledged that other homes in the area are serviced by commercial vehicles.

Mr. Gagnon introduced a photograph, marked as Protestant's Exhibit No. 1, which confirmed that there is screening from the property that is the subject of the special exception request.

Next for the opposition testified Mrs. Karen Black. She resides at 617 Walters Mill Road. Her driveway is across from Pat Crouse, which is 612 Walters Mill Road.

Mrs. Black has lived on Walters Mill Road for 16 years. She described the road as having no shoulders. She explained that she can see the property, the barn and the driveway. She knew there was a commercial business going on at 618 Walters Mill Road, but did not know about the zoning issues. She maintained there was no screening to the road. She testified to some unrelated problems that occurred at 614 Walters Mill Road involving an incident with a commercial vehicle, however, that in no way involved the subject property. She thought that there could be a traffic concern if an individual was pulling out of 618 Walters Mill Road in a vehicle with a trailer. She testified that the neighborhood is residential, surrounded by farms.

Mrs. Black testified that, in May 2007, she would see the vehicles go in and out of the driveway 10 to 15 times per day. She then admitted she was not counting them.. When a vehicle leaves 618 Walters Mill Road, the lights shine on her house between October and April.

On cross-examination, Mrs. Black was unable to provide any examples involving damage caused by any of the vehicles related to the business at 618 Walters Mill Road. Mrs. Black did not provide a photograph to illustrate her allegation that there was no screening to the road.

The two individuals who were present in opposition, Conrad Gagnon and Karen Black provided the opportunity to inquire of the witnesses presented, but declined and relied upon People's Counsel.

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### **APPLICABLE LAW**

These Special Exception requests are governed by Sections 267-53D(1) and 267-53H(1) of the Harford County Code:

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

*“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, provided 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 states:

*“Services.*

- (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.”*

Furthermore, Section 267-9I of the Harford County Code is also applicable to the request and discussed in further detail below.

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

The Applicants propose a special exception for the purpose of storing landscaping equipment and trucks at 618 Walters Mill Road. The request for the special exception involves the size of the operation that was being conducted in May 2007 and would include the following:

- 1 - Ford F350 landscape dump truck
  - 1 - Ford F450 landscape dump truck
  - 1 - International 4100 dump truck
  - 1 - 12,000 lb equipment trailer
  - 1 - Bobcat T-300 skid loader
  - 1 - Kubota KX91 mini excavator
- Storage of general contractors' tools, shovels, rakes, saws, wheel barrows and other hand tools inside the existing barn.

The Applicant has been in business since 2002 and started storing equipment on the agriculturally zoned property in 2004. The business is primarily engaged in landscaping. In May 2007, they had up to 7 employees. The Applicants' employees arrive between the hours of 7:15 – 7:30 a.m. and leave between the hours of 4:30 – 5:30 p.m. The employees tend to park in the designated area.

The Applicants also requested approval for one additional truck, one additional skid loader, one additional trailer and up to six additional employees. These requests were based upon the future expansion of the business, should the company continue to grow. They also requested approval for a 30 foot by 40 foot pole barn for storage.

The Department of Planning and Zoning recommended the request be approved, subject to various conditions. Planning and Zoning requested a detailed site plan for review and approval through the Development Advisory Committee. Planning and Zoning also requested that the hours of operation be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday, and 7:00 a.m. to 5:00 p.m. on Saturday, with no Sunday operation. The Applicants were also required to plant trees 4 feet high in order to screen from one of the neighbors, who is a relative and was not present at the hearing.

The Department of Planning and Zoning also recommended the requested expansion of the business greater than what existed in May 2007.

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Commercial vehicle storage is allowed only upon satisfactory performance with the requirements of Section 267-53D(1), as follows:

*“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, provided that:*

No equipment sales is proposed by the Applicants.

- (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 equipment storage will be fully screened by existing vegetation and the proposed supplemental landscaping.

- (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.*

No sales or service is proposed.

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

The subject property contains 7.22 acres.

Accordingly, it can be seen that the provisions of Section 267-53D(1) are met.

Next, the Applicants must also meet the requirements of Section 267-53H(1) in order to be allowed to maintain construction services in the Agricultural District:

*“Services.*

- (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 Applicants propose to park the vehicles and equipment on the gravel lot located to the rear of the barn. The Department of Planning and Zoning is recommending a minimum of a double staggered row of trees. The Applicant agreed to the buffer as recommended by Planning and Zoning. Accordingly, these requirements are met.

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Furthermore, in addition to the specific applicable special exception requirements, the Applicant must meet the more generalized considerations of the “Limitations, Guides and Standards” found in Section 267-9I of the Harford County Development Regulations, discussed as follows:

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

There will be no adverse impact on individuals living and working in the area. The subject parcel is within an agricultural area of large lots, with scattered residential uses. The Applicants’ equipment is similar to equipment utilized in most agricultural operations.

- (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.*

There will be no adverse impact on traffic. Sight distances are good. Walters Mill Road is County maintained. Access to the subject parcel is good.

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

These special exceptions will have no adverse impact on the orderly growth of the neighborhood and community, and there is no evidence of adverse fiscal impact.

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

While there may, in fact, be some odor, dust, and smoke generated by the operation of the proposed vehicles, the impact should not be greater than typical impact from vehicles and equipment included in most agricultural operations, and will certainly not be greater than the impact that one would normally expect from such uses.

- (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. Fire services will be provided by the Forest Hill Volunteer Fire Department.

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

As special exceptions, these uses have been determined by the Harford County Council to be principally permitted in this agriculturally zoned district, provided that all specific and general conditions are met. It is, accordingly, found that such conditions are met and, therefore, this use is consistent with generally accepted planning principles and practices, and with the Harford County Master Land Use Plan.

- (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.*

It is found that the proposal is consistent with the Development Regulations and with the Harford County Master Land Use plan.

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

No such features have been identified.

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

No such historic landmarks have been identified.

It can, accordingly, be seen that the requested special exceptions meet the considerations of Section 267-9I.

Having met all the specific and general requirements, the use, nevertheless, pursuant to Schultz v. Pritts, 291 Md. 1, 432 A2d. 1319 (1981), must be shown to have no greater impact at this location than at another within the district. While addressed above and for reasons set forth above, it is easily found that the proposed use will have no greater impact here than at some other location within the zone. Indeed, no other locations have been shown that would be more fitting for the business and no other areas have shown that it would have less of an impact on residents. To the extent one of the witnesses in opposition alleged there was no screening to the road, the testimony was not supported by the record. The testimony of the other witnesses (including one of the protestants) the Applicants' expert and the Deputy Director of the Department of Planning and Zoning, indicated there is no visual impact.

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Although it is the recommendation that the special exception be approved, the recommendation is only for the business that was operating in May 2007 and not for the expanded business as proposed by the Applicant and Planning and Zoning.

It is the recommendation of the Hearing Examiner that only the special exception be granted for the business that existed in May 2007 and not for the expanded use. It is the recommendation of the Hearing Examiner that it would be more appropriate for the Applicant to return in the future, when and if, they elect to expand the business. It would be more appropriate at that time to evaluate the requested increase and the application of Sections 267-53D(1), 267-53H(1) and 267-9I.

### **CONCLUSION:**

Accordingly, for the above reasons, it must be recommended that the special exception requests be approved, subject to the following conditions:

1. The Applicants prepare a detailed site plan for review and approval through the Development Advisory Committee (DAC). The site plan shall show, in detail, all existing improvements, the storage areas, security lighting, if any, employee parking areas and the additional landscaping.
2. The Applicants shall obtain all necessary permits and inspections.
3. The Applicants shall plant a buffer of trees, as recommended by the Department of Planning and Zoning, to screen the area from view from the neighbor's (relative) property.
4. The hours of operation shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday, and 7:00 a.m. to 5:00 p.m. on Saturday, with no Sunday operation.
5. The approval is for the following equipment only:
  - 1 - Ford F350 landscape dump truck
  - 1 - Ford F450 landscape dump truck
  - 1 - International 4100 dump truck
  - 1 - 12,000 lb equipment trailer
  - 1 - Bobcat T-300 skid loader
  - 1 - Kubota KX91 mini excavatorStorage of general contractors' tools, shovels, rakes, saws, wheel barrows and other hand tools inside the existing barn.

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6. The number of employees at this site will be limited to five (5).
7. There shall be no further expansion of the business at this site, including equipment and employees, without approval by the Harford County Board of Appeals.

Date NOVEMBER 17, 2008

MICHAEL H. DANNEY  
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on DECEMBER 17, 2008.