

IN RE: <b>PETITION FOR VARIANCE</b>	*	BEFORE THE
N/S Earls Road, 925' NE of		
Mulecart Road	*	ZONING COMMISSIONER
<b>(424 Earls Road)</b>		
15 <sup>th</sup> Election District	*	OF
6 <sup>th</sup> Council District		
	*	BALTIMORE COUNTY
Frank R. Bon		
Petitioner	*	<b>Case No. 2009-0022-A</b>

\* \* \* \* \*

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Frank Bon. The Petitioner requests a variance from Sections 102.2, 255.1 and 258.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed storage building, with side and rear yard setbacks as close as 4 feet to a property line, an existing storage building with a rear setback of 1 foot and an existing dwelling proposed for office use with a side yard setback of 17 feet, all in lieu of the required 30 feet, and to allow a building separation of as close as 22 feet (between the front and side setbacks of storage buildings) in lieu of the required 55 feet. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner’s Exhibit 1.

Appearing at the requisite public hearing in support of the requests were Robert Infussi of Expedite, LLC, on behalf of the owner Frank Bon, and David Billingsley with Central Drafting and Design, Inc., the consultant who prepared the site plan for this property. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is an irregular shaped parcel located with frontage on the northwest side of Earls Road, just south of Ebenezer Road in Middle River. The property contains a gross area of 22,675 square feet (0.52) acres,

more or less, primarily zoned M.H.-I.M. with a triangular portion of M.L.-I.M. zoning on the rear portion of the lot located within the MD 43 (Rt. 43 Overlay District).

Presently, the property is used for two (2) purposes. In fact, these uses have existed on the property for many years. Specifically, the one-story dwelling built in 1968 and known as 424 Earls Road fronts on that road and serves as the office for Frank Bon t/a Frank Bon Construction Company.<sup>1</sup> The rear of the property is used accessory to the office for business/commercial purposes serving as a contractor's storage yard. As more particularly shown on the site plan, it is improved with two (2) separate existing structures which are used for the storage of Frank Bon's construction equipment and vehicles. The smaller building, 20' x 10', is labeled as "existing shed" and is to be removed. The 24' x 24' one-story storage building located one (1) foot from the southern property line will remain. The Petitioner desires to expand the enclosed storage area by constructing a new 47' x 30' building in the rear corner (northeastern) portion of the lot. This building, while allowing equipment and vehicles to be kept inside out of the weather, will also benefit the appearance of the locale as there will no longer be any outside storage of materials and machinery used in connection with the business.

A series of variances are requested in order to proceed as proposed. As shown on the site plan, two of the variances requested are to legitimize the location of the existing buildings (the dwelling and 24' x 24' storage building). The other two variances are requested for the proposed storage building which will be constructed in the rear, northeast corner of the property. As shown on the site plan, there will be a distance of 22 feet between the proposed storage building and the existing storage building. The side and rear yard setback variances *as close as four (4) feet* pertain to the rear corner of the new building. The building location is driven by the shape of the lot that is 130 feet wide at the front property line and tapers to a width of 80 feet at the rear. The central portion of the lot is where the existing septic system is located.

---

<sup>1</sup> Prior to May 2007, the dwelling served as the office for a home improvement contractor and carpet installer who operated from this location for at least four (4) years prior to Petitioners purchase of the property from Pauline Farrell on May 22, 2007.

The proposed storage building and its location have been discussed with adjacent property owners: the Comer Family Limited Partnership to the rear operates a welding and machine shop; Calvin Thomas on the northeast side runs a sand and gravel contractors storage yard and Fred and Maria Kemp at 418 Earls Road whose property is zoned M.H.-I.M. is used residentially. None of these owners oppose the intended improvements. A wood privacy fence and driveway separates the Kemps residentially used property. The Kemps will benefit by having the storage of outside equipment moved inside. Although there were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency, the Department of Environmental Protection and Resource Management (DEPRM) insists as a condition of approval that the new storage building be located 20 feet from the septic system. Petitioner will provide parking spaces in this area to the rear of the property, which are shown on the site plan. The plan shows that there is more than sufficient driveway width to access the storage facilities and parking spaces. I find that the plan presented as Petitioner's Exhibit 1 will not adversely affect the community and is within the spirit and intent of the M.L.-I.M. / M.H.-I.M. and MD 43 Overlay regulations.

Based upon the testimony and evidence presented, I am persuaded to grant the requested relief. The uniqueness of the property is its unusual configuration and the location of the septic system and existing buildings. I find that the Petitioner would suffer a practical difficulty if relief were denied. Owing to the character of the surrounding neighborhood, it is clear that the granting of the relief will not result in any detrimental impact upon adjacent properties. Thus, the relief requested shall be granted consistent with the comments set forth above.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth herein, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 18<sup>th</sup> day of September, 2008 that the Petition for Variance seeking relief from Sections 102.2, 255.1 and 258.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a

proposed storage building, with side and rear yard setbacks as close as 4 feet to a property line, an existing storage building with a rear setback of 1 foot and an existing dwelling proposed for office use with a side yard setback of 17 feet, all in lieu of the required 30 feet, and to allow a building separation of as close as 22 feet (between the front and side setbacks of storage buildings) in lieu of the required 55 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioner may apply for his building/sign permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

WJW:dlw

\_\_\_\_\_  
SIGNED  
WILLIAM J. WISEMAN, III  
Zoning Commissioner  
for Baltimore County