

RESOLUTION

WHEREAS, the Prince George's County Planning Board has reviewed Departure from Design Standards Application No. 538 requesting departures from driveway width and *Landscape Manual* requirements and associated variances from setback and green area requirements in accordance with Subtitle 27 of the Prince George's County Code; and

WHEREAS, at the public hearings on February 27, 2003, the applicant proposed to revise the site plan to include detail of the proposed fence, and

WHEREAS, the Planning Board continued the hearing to March 6, 2003 to allow the applicant time to revise the plan, and

WHEREAS, after consideration of the evidence presented at the public hearings on February 27, 2003 and March 6, 2003, the Prince George's County Planning Board finds:

A. **Location and Field Inspection:** The subject property is located on the south side of Old Baltimore Pike, approximately 150 feet west of Talbot Avenue. It comprises .17 acre (7,500 square feet) of land and is improved with a 1 ½-story building, a 417-square-foot shed, and a parking area for five cars. The property is currently used as a contractor's office. It has 50 feet of frontage on Old Baltimore Pike from which it is accessed.

B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	I-2	I-2
Use(s)	Contractor's Office	Contractor's Office
Acreage	.17	.17
Lots	Lot 5	Lot 5
Square Footage/GFA	1,450	1,450

C. **History:** The property was originally adopted into the Maryland-Washington Regional District on April 17, 1928. It was rezoned from the R-R Zone to the I-2 Zone in 1975. The approved 1990 *Sectional Map Amendment (SMA) for Subregion I* retained the property in the I-2 Zone.

D. **Master Plan Recommendation:** The 1990 *Approved Master Plan for Subregion I* recommends the property for heavy-industrial use.

E. **Request:** The applicant requests a departure of ten feet from the 22-foot width requirement for a two-way driveway to validate the existing 12-foot-wide driveway. In addition, the applicant is requesting a departure from the requirements of Sections 4.3(b) (Perimeter Landscape Strip) and 4.7

(Buffering Incompatible Uses) of the *Landscape Manual*. The applicant is also requesting variances from the building and fence setback requirements and the ten percent green area requirement.

F. **Surrounding Uses:**

- North— Storage yard in the I-2 Zone
- East— Theater (adult entertainment) in the I-2 Zone
- South— Across Old Baltimore Pike Warehouse in the I-2 Zone
- West— Warehouse in the I-2 Zone

The subject property is located within an industrially zoned area that is located between US 1 (west) and Old Baltimore Avenue (east), stretching between Powder Mill Road (south) and Contee Road (north).

G. **Design Requirements:**

1. **Number of Required Spaces:** *Section 27-568 of the Zoning Ordinance requires a total of four parking spaces for the contractor office use (one parking space per 500 square feet of gross floor area).* The site plan provides for five parking spaces, including one van-accessible space for the physically handicapped. There are no loading spaces required and none provided.
2. **Landscape Manual Requirements:** The property is subject to the requirements of Sections 4.3 and 4.7 of the *Landscape Manual*. The Planning Director recommended denial of the applicant's proposal for alternative compliance (AC-03001) and, consequently, the applicant is requesting a departure from these requirements.
3. **Signs:** No freestanding signs are proposed with this application.

H. **Required Findings:**

- (A) **Section 27-239.01(b)(9) of the Zoning Ordinance provides that in order for the Planning Board to grant the departure, it shall make the following findings:**

1. **The purposes of this Subtitle will be equally well or better served by the applicant's proposal.**

The purposes of the Zoning Ordinance are set forth in Section 27-102. They are varied in nature, but in general are to protect the health, safety and welfare of the residents and workers in Prince George's County. In this instance, the facts establish that granting the

requested departures will in no way jeopardize these purposes. It is important to note that these departures are requested to validate an existing situation.

The existing building was originally constructed as a dwelling and was later converted to other uses. There is no existing landscaping on the site. The 1990 *Approved Master Plan for Subregion I* recommends the property for heavy-industrial use. The approved 1990 *Sectional Map Amendment (SMA) for Subregion I* retained the property in the I-2 Zone. The current use (a contractor's office and storage yard) has existed on the property since 1988. A widening of the existing driveway cannot be accomplished without causing substantial damage to the existing building and rendering it virtually unusable.

Moreover, the applicant indicated that he is the only person using the driveway. As such, the existing 12-foot-wide driveway effectively serves the purposes of the standard as only one driver at any time is expected to use the driveway. The applicant has also indicated that the property is being used as an office and overnight storage for equipment with no activities during the evenings and weekends. Moreover, customers do not come to the office; all of the applicant's contracting work is done at the work sites.

**2. The departure is the minimum necessary, given the specific circumstances of the request.**

The requested departures are the minimum necessary without causing substantial damage to the existing building and parking spaces.

**3. The departure is necessary in order to alleviate circumstances that are unique to the site or prevalent in areas of the County developed prior to November 29, 1949.**

The departure will merely validate a situation that existed on the property for at least 15 years. The proposed use will not intensify or exacerbate existing traffic and parking noise or aesthetic conditions in the area. The departure is necessary to alleviate circumstances that are commonly found in areas initially developed with residential uses and later converted to industrial use.

**4. The departure will not impair the visual, functional or environmental quality or integrity of the site or of the surrounding neighborhood.**

The departure will not impair the visual, functional or environmental quality or integrity of the site or the surrounding area. The requested departure will not result in further decreasing the existing driveway width. The substandard width is a design constraint associated with the placement of the building on the property at the time of its original construction. Therefore, the departure will not impair the visual, functional or environmental quality or integrity of the site or of the surrounding neighborhood. To further enhance the visual quality of the site and to compensate for the complete lack of landscaping and bufferyards, it is

recommended that the applicant replace the existing eight-foot-high, chain-link fence around the property with an eight-foot-high, sight-tight board fence.

- (B) **For a departure from a standard contained in the *Landscape Manual*, the Planning Board shall find, in addition to the requirements in paragraph (A) above, that there is no feasible proposal for alternative compliance, as defined in the *Landscape Manual*, which would exhibit equal or better design characteristics.**

Installation of the 20-foot-wide landscaped bufferyard and the perimeter landscaped strip, as required by Section 4.7 and Section 4.3 (b) of the *Landscape Manual*, along the northern and southern property boundaries, is not practical. These requirements cannot be provided without causing a substantial damage to the existing building and a loss of needed parking spaces. There is no feasible proposal for alternative compliance, as defined in the *Landscape Manual* that would exhibit equal or better design characteristics. However, replacement of the existing eight-foot-high, chain-link fence by an eight-foot-high, sight-tight, board fence will enhance the aesthetic appearance of the property and provide an effective buffer for both the subject property and the adjoining properties.

I. **Variance (VDDS-538):**

The proposed site plan requires the following variances:

1. **Section 27-465:** To reduce the setback requirements for the fence (which is more than six feet tall) from 25 feet to 14 feet along the front yard and from a combined 30 feet to 0 feet in the side yard areas.
2. **Section 27-470(b)(1):** To reduce the ten percent green area requirement from 750 square feet to 300 square feet.
3. **Section 27-474(b):** To reduce the front building setback along Old Baltimore Pike from 25 feet to 14 feet.
4. **Section 27-474(b):** To reduce the combined building setbacks in the side yards from 30 feet to 20 feet.

**Section 27-230** requires the Planning Board to make the following findings to grant a variance.

1. **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions.**
2. **The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or undue hardship upon, the owner of the property.**

**3. The variance will not substantially impair the intent, purpose or integrity of the General Plan or Master Plan.**

The existing structure was originally constructed as a single-family dwelling before the subject property and the immediate area were placed in the I-2 Zone. Subsequent conversion of the residential use to the current contractor's office was not anticipated, neither was the need to conform to the I-2 Zone requirements and the current zoning standards.

The substandard size (approximately .17 acre with only 50 feet of street frontage and a depth of 150 feet) and the placement of a building, which was designed as a residential structure on the property, makes it difficult for the existing improvements to conform to current zoning requirements. These characteristics are extraordinary.

The existing improvements on the property are consistent with the property's original zoning of R-R, which dates back to the 1928 comprehensive zoning. Compliance with current standards of the I-2 Zone cannot be attained without substantial damage to the existing improvements. The strict application of this Subtitle will result in undue hardship upon the applicant. Due to the small size of this site, very few, if any, improvements could ever be made without variances.

The requested variances are needed, for the most part, to validate conditions that have existed on the property for nearly 30 years. These variances will not impair the intent, purpose or integrity of the 1990 *Approved Master Plan for Subregion I*, which recommends the property for heavy- industrial use.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED DDS-538 and VDDS-538, subject to the condition that the existing eight-foot-high, chain-link fence illustrated on the site plan shall be replaced by an eight-foot-high, sight-tight, board fence.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council for Prince George's County, Maryland within thirty (30) days of the final notice of the Planning Board's decision.

\* \* \* \* \*

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Eley, seconded by Commissioner Scott, with Commissioners Eley, Scott, Lowe, and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, March 6, 2003, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 27th day of March 2003.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

TMJ:FJG:ET:rmk

(Revised 8/9/01)