

R E S O L U T I O N

WHEREAS, the Prince George=s County Planning Board has reviewed Special Exception Application No. 4457 and Variance in Conjunction with Special Exception Application No. 4457 requesting an Insurance Sales Office and a Variance of 17 feet from the 25-foot setback from the street, respectively, in accordance with Subtitle 27 of the Prince George=s County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on January 16, 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 Marlboro Pike approximately 150 feet east of Brown Station Road, known as 14003 Old Marlboro Pike. The site is developed with a two-story single-family residence. The site is primarily cleared, except the southernmost section is wooded floodplain associated with Federal Branch.

- B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	R-R	R-R
Use(s)	Single-family residence	Single-family residence and Insurance Sales Office
Acreage	0.56±	0.56±
Square Footage/GFA	771± square feet (residence)	630± square feet (residence) 141± square feet (sales office)
Dwelling Units:		
Detached	1	1

- C. **History:** The subject property was retained in the R-R Zone by the 1994 *Sectional Map Amendment for Subregion VI*.
- D. **Master Plan Recommendation:** The 1994 *Master Plan for Subregion VI* recommends a service-commercial use for the subject property. The Plan identifies several existing service-commercial uses along this section of Old Marlboro Pike, noting "At this time, certain properties on both sides of Old Marlboro Pike are appropriate for future Service-Commercial usage." (Master Plan, pg. 144)
- E. **Request:** The applicant requests permission to use an enclosed porch (141 square feet) on the front of the existing residence as an insurance sales office. The applicant indicates that the residential character of the site will not be altered. Because the porch is only set back 8 feet from the future

right-of-way line for MD 725, the applicant is requesting a variance of 17 feet from the 25-foot setback requirement.

F. Neighborhood and Surrounding Uses: The neighborhood boundaries are identified as follows:

North - Old Marlboro Pike, including uses on both sides

East
And South - Federal Spring Branch

West - Ritchie-Marlboro Road

The neighborhood is comprised of mostly single-family residences. However, there are several commercial uses along this stretch of Old Marlboro Pike including a farm equipment dealer, used car sales lot, and the Villages of Marlborough Shopping Center. In addition, there are several institutional uses, including a fraternal lodge, a church and a warehouse used by the Board of Education.

The uses immediately surrounding the proposed special exception are as follows:

North - Across Old Marlboro Pike is a shopping center in the L-A-C Zone

East, South
And West - Single-family residences in the R-R Zone

G. Specific Special Exception Requirements: Section 27-366 - Insurance Sales Office:

- (a) **The offices of not more than two (2) insurance brokers, agents, or salesmen may be permitted in a dwelling, subject to the following:**

- (1) **At least one (1) of the brokers, agents, or salesmen shall be a bona fide resident of the dwelling;**

Finding: The applicant is a licensed insurance agent and is a bona fide resident of the subject property.

- (2) **Suitable office space is not available within the general vicinity;**

Finding: The applicant details a fruitless search for suitable office space in an addendum to the statement of justification. The applicant requires no more than the 140 square feet proposed by this application. According to the applicant, the existing office space in the greater Upper Marlboro area is inappropriate because he is unable to find a lessor willing to lease or sublease fewer than 200 square feet. He identifies two individuals in the area who might be able to provide space in their existing suites, but deems them unsuitable because they do not provide for client confidentiality, and because the offices (a title attorney and builder) were not connected with his insurance business.

Due to the applicant's inability to find such a small office space within the general vicinity despite numerous attempts, it is concluded that suitable office space is not available.

- (3) **At least fifty percent (50%) of the gross floor area of the dwelling shall be devoted to residential use;**

Finding: The area proposed for the insurance office comprises approximately 20 percent of the gross floor area of the building. The remaining 80 percent will be solely for the residential use.

- (4) **The use shall not alter the residential character or appearance of the premises; and**

Finding: The applicant is not proposing any material changes to the site.

- (5) **Not more than one (1) nonresident clerical assistant may be employed on the premises.**

Finding: The applicant will not employ more than one clerical assistant.

- (b) **A use and occupancy permit shall be required for the use.**

Finding: Upon grant of the special exception, the applicant will secure the necessary use and occupancy permit.

H. **Parking Regulations:** The residence and the sales office require two parking spaces. Two spaces are shown.

I. **Landscape Manual Requirements:** This proposal is exempt from landscaping, buffering and screening requirements of the *Landscape Manual* since no new buildings are proposed.

J. **Zone Standards and Need for Variances:** The existing enclosed porch does not meet the 25-foot setback from the ultimate right-of-way for Old Marlboro Pike. The applicant is seeking a variance of 17 feet. Section 27-230 (a) of the Zoning Ordinance states:

- (a) **A variance may be only granted when the Board of Appeals finds that:**

1. **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;**

Finding: The subject property is exceptionally long and narrow, being 79 feet in width but 339 feet in depth. The existing front porch was built as part of the original structure in the 1920s, prior to the setback regulations. IN fact, the porch exceeds the 25-foot setback from the existing paved road; however, a wide future right-of-way extends an additional 20 feet

onto the subject property. In addition, the rear 100± feet of the site is in the 100-year floodplain associated with Federal Branch.

2. **The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and**

Finding: Not allowing for the variance would create undue hardship for the applicant if the District Council were to find this use appropriate for the subject property. Although the building meets the setback from the existing roadway, it is unused future right-of-way that determines the extent of the setback. There is no current road widening project for the affected section of MD 725. The strict application of the Zoning Ordinance would render even the long-existing residence nonconforming. Even if the applicant were to locate the office elsewhere in the building (rather than in the front porch area), a variance would be required.

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

Finding: Allowing the variance would not impair the intent of the *Subregion VI Master Plan*, which recommends the site for a service-commercial use. Rather, it would allow the site to be developed in accordance with the recommendation of the plan.

K. **Sign Regulations:** The applicant is not proposing a freestanding sign on the site.

L. **Required Findings:**

Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

- (1) **The proposed use and site plan are in harmony with the purposes of this Subtitle.**

Finding: The proposed use and site plan are in harmony with the purposes of the Zoning Ordinance. The general purposes of the Ordinance are to promote the health, safety, morals, comfort, convenience and welfare of the inhabitants of the County. There is no evidence in the record to indicate that the applicant's proposal is in conflict with these general purposes.

- (2) **The proposed use is in conformance with all the applicable requirements and regulations of the Zoning Ordinance.**

Finding: The proposed use is in conformance with all the applicable requirements and regulations of the Zoning Ordinance. The few site plan deficiencies identified by the Permit Section have been addressed with a revised site plan.

- (3) **The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or in the absence of a Master Plan or Functional Master Plan, the General Plan.**

Finding: The proposed use will not substantially impair the integrity of the Subregion VI Master Plan, which recommends a service-commercial use for the site. This proposal retains the recommended character by retaining the dwelling as the primary use and minimizing exterior alterations.

(4) The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area.

Finding: The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area because: (1) most business and sales transactions are proposed to be conducted by telephone and mail, (2) there will be little or no Adrop-in@ business visits, (3) the exterior appearance of the dwelling will not change, and (4) no new floor area will be added.

(5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.

Finding: The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood. The proposed exterior changes are minimal. There will be no freestanding business signs and little or no drive-in/walk-in customer traffic.

(6) The proposed site plan is in conformance with an approved Tree Conservation Plan.

Finding: The property is exempt from needing a tree conservation plan because it is less than 40,000 square feet in area, and it contains less than 10,000 square feet of woodlands. A Letter of Exemption must be obtained from the Natural Resources Section (M-NCPPC) if this application is to be approved.

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 recommends to the District Council for Prince George's County, Maryland that SE-4457 and VSE-4457 be APPROVED.

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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 Lowe, with Commissioners Eley, Lowe, Scott and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, January 16, 2003, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 6th day of February 2003.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:TL:rmk

(Revised 8/9/01)