



## SPECIAL EXCEPTION APPLICATION NO. 4454

## VARIANCE APPLICATION NO. 4454(V)

Application	General Data
Project Name	Date Accepted 12/31/01
Locust Lane Farms	Planning Board Action Limit N/A
Location	Tax Map & Grid 064, A-1
Southeast corner of Mill Branch Place and Locust Way, known as 3202 Locust Way	Plan Acreage 5.41± Ac.
	Zone O-S
Applicant	Dwelling Units N/A
Donald Entzian	Square Footage N/A
3202 Locust Way	Planning Area 74B
Bowie, Maryland 20716	Council District 04
	Municipality None
	200-Scale Base Map 204NE15

Purpose of Application		Notice Dates	
SE-4454:      Landscaping Contractor’s Business  VSE-4454:      Variance from 25-acre requirement		Adjoining Property Owners (CB-15-1998)	12/09/02
		Previous Parties of Record (CB-13-1997)	N/A
		Sign(s) Posted on Site	N/A
		Variance(s): Adjoining Property Owners	N/A
Staff Recommendation		Staff Reviewer: Tom Lockard	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
		X	

August 28, 2002

**TECHNICAL STAFF REPORT:**

TO: The Prince George's County Planning Board  
The Prince George's County District Council

VIA: Arie Stouten, Zoning Supervisor

FROM: Tom Lockard, Senior Planner

SUBJECT: **Special Exception Application No. 4454**  
**Variance Application No. 4454(V)**

REQUEST: **SE-4454: Landscaping Contractor's Business**  
**VSE-4454: Variance from 25-acre requirement**

RECOMMENDATION: **DENIAL**

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**NOTE:**

This application is on the agenda for the Planning Board to decide whether or not to schedule a public hearing. If the Planning Board decides to hear the application, it will be placed on a future agenda.

Any person may request the Planning Board to schedule a public hearing. The request may be made in writing prior to the agenda date or in person on the agenda date. All requests must specify the reasons for the public hearing. All parties will be notified of the Planning Board's decision.

You are encouraged to become a person of record in this application. The request must be made in writing and sent to the Office of the Zoning Hearing Examiner at the address indicated above. Questions about becoming a person of record should be directed to the Hearing Examiner at 301-952-3644. All other questions should be directed to the Development Review Division at 301-952-3530.

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## FINDINGS:

- A. Location and Field Inspection: The site is located east of US 301, at the southeast corner of Mill Branch Place and Locust Way, known as 3202 Locust Way. It is developed with an existing landscaping contractor's business. Numerous metal storage buildings and sheds surrounded by a combination of bluestone, concrete and asphalt paving make up the interior portion of the site. A single-family residence and garage are located in the western corner of the property.

- B. Development Data Summary

	EXISTING	PROPOSED
Use(s)	Single-family residence, landscape contractor's business	Single-family residence, landscape contractor's business
Acreage	5.4± acres	5.4± acres
Square Footage/GFA	22,928 square feet	22,928 square feet
Dwelling Units:		
Attached	0	0
Detached	1	1
Multifamily	0	0

- C. History: The property was placed in the O-S Zone by the 1991 *Sectional Map Amendment (SMA) for Bowie-Collington Mitchellville and Vicinity*.
- D. Master Plan Recommendation: The 1991 *Master Plan for Bowie-Collington Mitchellville and Vicinity* recommends permanent low-density rural land uses for the subject property.
- E. Request: The applicant seeks to validate an existing landscaping contractor's business that has been operating on the site for many years. In addition, the applicant seeks a variance of 19.59± acres from the 25 minimum contiguous acre requirement.
- F. Neighborhood and Surrounding Uses: The site is surrounded by the following uses:

North: Agricultural fields in the R-A Zone and a golf driving range/miniature golf course (SE-2009) in the R-A Zone

East: A horse farm in the O-S Zone

South: Scattered single-family residences in the O-S Zone

West: Agricultural fields in the O-S Zone

The neighborhood is defined by the following boundaries:

North: Green Branch

East: The Patuxent River

South: Mill Branch

West: US 301

The subject neighborhood is rural in character, consisting of farmland and scattered single-family residences. The exception is a golf driving range located across Mill Branch Place on a 51±-acre parcel which was approved by the District Council as a special exception in 1969, and some scattered retail commercial found along US 301.

G. Specific Special Exception Requirements - Section 27-369 - Landscaping Contractor's Business:

**A landscaping contractor's business may be permitted, subject to the following:**

- (1) **The subject property shall contain at least twenty-five (25) contiguous acres;**

Finding: The subject property contains only 5.4 acres, or about 22 percent of the required 25 acres.

- (2) **The subject property shall have frontage on, and direct vehicular access to, an existing street with sufficient capacity to accommodate the type and amount of traffic to be generated by the business;**

Finding: The applicant currently has access to Locust Way, which is an easement serving the subject property and several parcels to the south. Locust Way connects with Mill Branch Place, which is designated by the Department of Public Works and Transportation as an “Other Public Road.” It is a two-lane privately maintained farm road with a 16.5-foot right-of-way.

The paved section in front of the subject site varies from 16.5 to 20 feet wide. Because their existing access on Locust Way would not meet this requirement, the applicant is proposing a new 30-foot driveway onto Mill Branch Place. Mill Branch Place, in turn, connects with Mill Branch Road and ultimately with US 301.

The applicant has indicated that no customers come to this site, only workers. The vast majority of the customer services are for trucks, particularly to spread straw mulch for newly seeded areas. These roads have been used by trucks and farm machinery since the 1980s without apparent difficulty. On this assumption, it is likely that Mill Branch Place can adequately accommodate the number of vehicle trips generated by the proposed special exception. Mill Branch Place is a straight road, with a slight downhill grade as you approach the subject property from Mill Branch Road. However, there is no evidence to suggest that the trucks cannot negotiate Mill Branch Place, nor does the relatively narrow width seem to create a difficulty for other drivers.

- (3) **Vehicular access to the subject property shall not be by means of streets internal to residential subdivisions;**

Finding: Mill Branch Road and Mill Branch Place are not internal to a residential subdivision.

- (4) **All business operations (except the outdoor growing of nursery stock) shall be located at least two hundred (200) feet from any abutting land in any Residential Zone, or land proposed to be used for residential purposes on an approved Basic Plan for a Comprehensive Design Zone, approved Official Plan for an R-P-C Zone, or any approved Conceptual or Detailed Site Plan. The District Council may waive this setback requirement if it determines that the buffer yard required in the Landscape Manual will adequately protect abutting residential land. These operations shall be screened from the view of the abutting residential land in accordance with the Landscape Manual; and**

Finding: Due to the size and configuration of the site, most of the operation is, in fact, within 200 feet from abutting land in a residential zone. None of the numerous buildings on the site meet this setback requirement, some being as close as 35 or 40 feet from residential property lines. The operation is setback only 80 feet from the single-family residence to the south.

The applicant requests the 200-foot setback be reduced along the southern and eastern property lines, feeling that the existing setback, as supplemented by additional landscaping and screening, is sufficient. If this application were subject to the requirements of the *Landscape Manual*, the minimum setbacks, bufferyards and plant units would be:

<b>SOUTHERN PROPERTY LINE</b>	<b>REQUIRED</b>	<b>PROPOSED</b>
Setback	50 feet	35 feet
Bufferyard Width	40 feet	30 feet
Plant Units	423 (w/6-foot fence)	420 (w/6-foot fence)*

\*The applicant is proposing the bufferyard be planted with a combination of three different types of deciduous trees, which will offer little screening during the winter months.

<b>EASTERN PROPERTY LINE</b>	<b>REQUIRED</b>	<b>PROPOSED</b>
Setback	30 feet	2.7 feet
Bufferyard Width	20 feet	20 feet*
Plant Units	170 (w/6-foot fence)	170 (w/6-foot fence)*

\*The applicant would not be able to provide for a full 20-foot-wide landscaped bufferyard where the new driveway connection would be made to Mill Branch Place.

Staff does not believe that the applicant's proposed screening and buffering can be found adequate to waive the 200-foot setback, nor do we think that the requirements of the *Landscape Manual* would be sufficient (even if the applicant could meet them, which they cannot).

The fact that this use, when permitted in a residential zone through the special exception process, requires a 200-foot setback for business operations, in addition

to a 25-acre overall size requirement, is an indication of the need to protect surrounding residential development from the impacts of the operations on the site. These impacts include noise as well as visual impacts. The placement of a visual buffer along the property line is not sufficient to overcome the need for the 200-foot setback.

**(5) Outdoor storage of equipment and materials (except nursery stock) shall not be visible from a street.**

Finding: Currently, stored vehicles and equipment are visible from the street. The applicant is proposing considerable additional landscaping and fencing to address this deficiency. However, it will take years for the proposed landscaping to reach a height that they will screen the site, particularly some of the large heavy-equipment stored along the south property line.

- H. Parking Regulations: A total of 43 parking spaces are required to serve the proposed use. The site plan shows 47 parking spaces. The use also requires four loading spaces; five are shown. Because the applicant is now showing the access to the property farther to the east along Mill Branch Place, the access no longer meets the 50-foot setback required by Section 27-579(b). A departure would be required.
- I. Landscape Manual Requirements: The application is exempt from the requirements of the *Landscape Manual* because there is no new building area proposed, nor are new parking spaces created.
- J. Zone Standards and Need for Variances: The development proposal meets the requirements of the O-S Zone. As previously mentioned, the applicant is seeking a variance from Section 27-369(a)(1), the 25 minimum acreage requirement. Section 27-230 of the Zoning Ordinance states:

**(a) A variance may be only granted when the District Council 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 applicant admits that the site is not exceptional in terms of shape or topographical conditions. Instead, they point to the fact that this property is the remainder of what was once a larger tract of 167 acres that has been divided amongst the family and sold to others over the last several decades. This “consolidation area,” as they refer to it, contains the structures and outbuildings which once held the farming equipment necessary to serve the family’s previously extensive holdings and leased fields, which at one time numbered in the thousands of acres.

The applicant’s inability to meet this requirement has very little to do with the shape of the site. The applicant’s family, like many others in years past, made the decision to divide up the old family farm, selling much of it to others. Unfortunately, they failed to retain the minimum 25-acre parcel on which to locate their evolved business. Even if we could accept this as

being an “extraordinary situation” (which we do not), approving a variance of this magnitude would undermine the assumptions which would permit the use of this special exception in this zone.

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: The practical difficulty in this instance has been self-imposed by the piecemeal sell-off of the family farm.

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

Finding: The requested variances contribute substantially to the incompatibility of this use with its residential neighbors. However, these impacts are localized to this neighborhood and do not constitute a substantial impairment of the Master Plan.

- K. Sign Regulations: The large business sign currently located at the intersection of Mill Branch Place and Locust Lane must be shown on the site and landscaping plans if it is proposed to remain. It must also meet the setback, height and area requirements for a freestanding sign.

- 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 purposes of the Zoning Ordinance are to provide for the orderly growth and development of the county and to promote the public health, safety and welfare. Two specific purposes which are relevant in this case are:

- (6) **To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development; and**
- (13) **To protect against undue noise, and air and water pollution, and to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and other similar features.**

This use could be in harmony with these purposes if the property for which it is proposed were of an appropriate size and had the required setbacks to accommodate the visual and noise impacts associated with a landscaping contractor's business. However, due to the site's inability to even approach either, this special exception request cannot be considered to be in harmony with these purposes.

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

Finding: This special exception requires the approval of a variance, which is so substantial as to negate the appropriateness of this use in this zone. It is therefore not in conformance with applicable regulations of this Subtitle.

- (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 Map Plan, the General Plan.**

Finding: While falling short, perhaps, of substantial impairment of the Master Plan, the proposed continued use of the site is not in harmony with the recommendations of the plan. The *Bowie-Collington-Mitchellville Master Plan* recommends permanent low-density rural land uses for properties in Community X, except where other zones are recommended in the southeast quadrant of the US 50/US 301/MD 3 interchange. The subject proposal for a landscaping contractor's business on an insufficiently sized parcel is out of character for the type of development envisioned for this community. The *Bowie-Collington-Mitchellville and Vicinity Sectional Map Amendment* (1991) rezoned this property from the R-A Zone to the O-S Zone to re-enforce the plan's recommendation for low-density development and to help foster a rural living area for this property and surrounding properties.

The size and location of existing buildings for this contractor's business imposes adverse impacts on adjoining rural land uses. The types and level of daily activities required to run the business sets the tone of a commercial atmosphere. Also, the landscape business will create truck activity along Locust Way and Mill Branch Place. This contributes to the commercial atmosphere and reduces the neighborhood's rural ambiance. Also, the size of the storage units, trucks and other equipment associated with the landscape business make it difficult to find that the site is not overdeveloped.

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

Finding: Given the modest number of vehicle trips associated with this use, traffic safety is not considered an issue in this case. There are visual and noise impacts associated with this use which will be detrimental to the use of adjoining properties. However, they are unlikely to directly affect the health and welfare of the residents in the area.

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

Finding: This use will cause detriment to the use and development of adjacent properties. Because the size of the site is inadequate for the use proposed, both visual and noise impacts are visited upon the neighborhood. The movement of heavy trucks and equipment into and out of the site is disquieting to a residential neighborhood, and should only be allowed where the zoning is appropriate or the size of the property is many times larger. The Zoning Ordinance permits this type of use but intends to minimize the nuisances associated with them through the use of

minimum setbacks and large expanses of land. These factors are not available here and the nuisances are not sufficiently contained.

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

Finding: The site is not subject to the provisions of the Woodland Conservation Ordinance because the subject property has less than 10,000 square feet of existing woodlands and there are no previously approved TCPs. A letter of exemption dated September 24, 2001, was submitted with the application.

**CONCLUSION:**

This proposal cannot meet the requirements of the Zoning Ordinance and is detrimental to the use and development of surrounding properties. Therefore, staff recommends DENIAL of Special Exception Application No. 4454 and its associated variance.