



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

SPECIAL EXCEPTION APPLICATION NO. 4464 (VSE-4464)

Application	General Data
Project Name: John Vitale & Sons, Inc. Location: West side of Seabrook Road, across from its intersection with Smith Avenue, known as 6222 Seabrook Road. Applicant/Address: Frank H. Vitale 13906 West End Farm Road Upper Marlboro, Maryland 20772	Date Accepted: 5/22/02
	Planning Board Action Limit: N/A
	Plan Acreage: 0.49
	Zone: C-A
	Dwelling Units: N/A
	Square Footage: 3,196 sq. ft.
	Planning Area: 70
	Council District: 03
	Municipality: None
	200-Scale Base Map: 208NE8

Purpose of Application	Notice Dates
Contractor's Office (Outside Storage) Variance From Setback Requirements For a Building	Adjoining Property Owners: (CB-15-1998) 5-22-02
	Previous Parties of Record: (CB-13-1997) N/A
	Sign(s) Posted on Site: N/A
	Variance(s): Adjoining Property Owners: 5/22/02

Staff Recommendation		Staff Reviewer: Jimi Jones	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

July 15, 2003

TECHNICAL STAFF REPORT:

TO: The Prince Georges County Planning Board
The Prince Georges County District Council

VIA: Arie Stouten, Zoning Supervisor

FROM: Jimi Jones, Planning Coordinator

SUBJECT: **Special Exception Application No. 4464 (VSE-4464)**

REQUEST: **Contractor's office with outdoor storage**
Variance of 11 feet from the 12-foot building setback requirement

RECOMMENDATION: **SE-4464: APPROVAL with Conditions**
VSE-4464: APPROVAL

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.

FINDINGS:

- A. Location and Field Inspection:** The subject property is an irregularly shaped parcel on the west side of Seabrook Road at Smith Avenue. This site also abuts the Amtrak/Conrail railroad tracks to the northwest. The property is developed with a contractor's office with an outdoor storage area. The office is housed in a one-story structure

B. Development Data Summary:

	EXISTING	PROPOSED
Zone(s)	C-A	C-A
Use(s)	Contractor's Office (Outside Storage)	Contractor's Office (Outside Storage)
Acreage	0.49 ac.	0.49 ac.
Lots	2	2
Parcels	2	2
Square Footage/GFA	1,916 sq. ft.	1,916 sq. ft.
Dwelling Units:	N/A	N/A

- C. History:** The property was retained in the C-A Zone during the 1993 Sectional Map Amendment for Glenn Dale-Seabrook-Lanham and Vicinity.

- D. Master Plan Recommendation:** The Glenn Dale-Seabrook-Lanham and Vicinity Master Plan recommends service-commercial use for the subject property. The 2002 General Plan places the property in the Developing Tier.

- E. Request:** The applicant wishes to validate an existing outdoor storage area associated with a plumbing contractor's business. The site plan indicates that a portion of the existing sheds extend onto the railroad right-of-way for Amtrak. These structures will be moved completely onto the subject property. A variance (VSE-4464) is also requested to address a deficiency in the setback of an existing one-story building. Section 27-462(b) of the Zoning Ordinance requires a minimum 12-foot building setback from the side property line. The subject building is located one foot from the northern property line.

- F. Neighborhood and Surrounding Uses:** The neighborhood is defined by the following boundaries:

North-	Amtrak/Conrail railroad tracks
East-	Seabrook Road
South-	Washington Boulevard
West-	Amtrak/Conrail railroad tracks and Carter Avenue

Staff disagrees with the neighborhood boundaries proposed by the applicant. The applicant offers the following boundaries:

North-	Amtrak/Conrail railroad right-of-way
East-	Eastern end of Smith Avenue
South-	Franklin Avenue
West-	Amtrak/Conrail railroad

The applicant proposes boundaries that attempt to include the subject commercial use with other commercial uses along Smith Avenue. Staff believes Seabrook Road effectively separates the subject property from the service-commercial uses along Smith Avenue to the east. While driving through the surrounding area, it appeared that Washington Boulevard to the south and Carter Avenue to the west are the type of collectors that define the neighborhood.

The subject property is surrounded by the following uses:

North-	Penn-Central/Amtrak railroad track in the R-R Zone and vehicle service uses farther north along Lanham Severn Road in the C-S-C Zone.
East-	Across Seabrook Road is a MARC station to the northeast on Smith Avenue and vehicle service uses on the south side of Smith Avenue in the C-M Zone. Single-family detached homes in the R-80 Zone are located to the southeast across Seabrook Avenue.
South-	A day care center in the C-A Zone, an asphalt contractor's business in the C-S-C Zone, and single-family detached homes in the R-80 Zone.
West-	Penn-Central/Amtrak railroad tracks in the R-R Zone to the northwest, undeveloped land and single-family detached homes in the R-80 Zone.

- G. Parking Regulations:** The site plan incorrectly notes that four parking spaces are required for the 1,916-square-foot contractor's office, based on one parking space per 500 square feet of gross floor area (GFA). The applicant failed to include all structures in the parking calculations. The one proposed and three existing sheds (at 320 square feet each) yield an additional 1,280 square feet to the total GFA. The total GFA is, therefore, 3,196 square feet, which requires seven parking spaces. The applicant provides five parking spaces. Two additional parking spaces are required or a departure from parking and loading spaces must be granted. Staff also notes that the parking space designated for handicapped persons must be 16 feet wide by 19 feet in length.

- H. Landscape Manual Requirements:** The applicant has expressed a desire to meet the requirements of the *Landscape Manual*. Section 1.1(e) and (g) of the *Landscape Manual* exempts building and grading permits from Sections 4.2, Commercial and Industrial Landscaped Strip Requirements, and 4.7, Buffering Incompatible Uses, when they involve an increase in GFA of not more than ten percent of the GFA of an existing building as of January 1, 1990, or 5,000 square feet, whichever is less.

The site plan shows a total GFA of 2,876 square feet for existing buildings on the property. A ten percent increase in GFA for this property would be 288 square feet. The applicant, however, is proposing an additional shed with 320 square feet of GFA. Since the proposed shed adds more than ten percent GFA, the site plan must be revised to meet Sections 4.2 and 4.7 of the *Landscape*

Manual. Alternatively, the applicant could propose a smaller shed (288 square feet or less) and the plan would be exempt from these Sections of the *Landscape Manual*.

- I. **Zone Standards:** The site plan shows that two existing sheds abut the northern property line while a third shed and a trailer lie within the railroad right-of-way for the Amtrak/Conrail line to the north. Also, an existing one-story brick building is set back one foot from the northern property line. The side yard requirements for the C-A Zone as provided in Section 27-462(b) of the Zoning Ordinance require a minimum 12-foot building setback from the side (i.e., north) property line. The applicant is requesting a variance of 11 feet for the existing one-story building and plans to relocate the existing and proposed sheds to meet the setback requirements. The findings for the variance are discussed below in Part K of this report.
- J. **Sign Regulations:** No freestanding signs are proposed on the plan. If one is contemplated, it must be delineated on the site and comply with the location, height and area requirements of the Ordinance.
- K. **VSE-4464:** The applicant is requesting a variance from the setback requirements for the C-A Zone. Section 27-462(b) requires a minimum setback of 12 feet for buildings. The site plan indicates that an existing one-story office building is set back one foot from the northern property line. The site plan also shows several sheds that do not meet the setback requirements. The applicant has agreed to relocate the sheds to provide the required setbacks.

The criteria for granting variances as provided in Section 27-230 are as follows:

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

The subject parcel of land has exceptional narrowness. The subject property is approximately 90 feet wide and the subject one-story building is 28.5 feet wide. A seven-foot-wide sidewalk abuts the south side of the building. This sidewalk provides access to the building from the parking spaces that abut the sidewalk. A 22-foot-wide, two-way drive aisle is provided as required by the Parking Regulations to allow ingress and egress on-site. This leaves an additional 9.5 feet between the drive aisle and the southern property line. Since the building is a permanent structure, it is impractical to require strict compliance with the setback requirement. It is unclear as to when the subject building was erected; we note, however, that aerial photographs from 1965 show the existing building on the property at its present location.

- (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**

The strict application of the Zoning Ordinance will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property. Strict compliance with the 12-foot side yard requirement would require the applicant to move this permanent building. It is unclear as to when the subject building was erected; we note, however, that aerial photographs from 1965 show the existing building on the property at its present location. The subject contractor's business has operated on the property since 1988.

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

The variance will not substantially impair the intent, purpose, or integrity of the Glenn Dale-Seabrook-Lanham and Vicinity Master Plan. The plan recommends service-commercial use for the property. The subject plumbing contractor is consistent with this recommendation. The 2002 General Plan placed the property in the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers and employment areas that are increasingly transit-serviceable. The subject use has been part of the commercial strip that buffers the adjacent residential community from the railroad. The use is consistent with the General Plan.

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.**

With the recommended conditions, the proposed use and site plan are in harmony with the purposes of the Zoning Ordinance. The purposes of the Zoning Ordinance, as set forth in Section 27-102, seek generally to “protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County.” The subject property is located adjacent to the Amtrak/Conrail railroad tracks. The existing contractor’s business serves the dual purpose of implementing the master plan recommendation for the property and buffering the adjacent residential community (to the southwest) from the railroad.

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

With the recommended conditions, the proposed use is in conformance with all the applicable requirements and regulations of the Zoning Ordinance. There are some minor deficiencies as pointed out by the Permit Review Section’s memo of June 4, 2002, that can easily be corrected.

- (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.**

The proposed use will not substantially impair the integrity of the master plan. The Glenn Dale-Seabrook-Lanham and Vicinity Master Plan recommends service-commercial use for the subject property. The subject plumbing contractor is consistent with this recommendation. The 2002 General Plan placed the property in the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers and employment areas that are increasingly transit-serviceable. The subject use has been part of the commercial strip

that buffers the adjacent residential community from the railroad. The use is consistent with the General Plan.

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

The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area. This application seeks to validate a use that has operated at its present location for over 15 years. Nothing in the record suggests that the use has had adverse impacts on the community.

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

The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood. The subject contractor's business has operated at its present location for over 15 years. Aerial photographs from 1965 suggest that the property has been used for service-commercial or industrial use for many years. Nothing in the record suggests that these uses have had detrimental impacts on the neighborhood. It is reasonable to conclude that continued use of this property for service-commercial purposes would not be detrimental to the use or development of adjacent properties.

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

The subject property is less than 40,000 square feet in area and is therefore exempt from the Woodland Conservation Ordinance.

CONCLUSION:

The special exception application seeks to validate a use that has operated at its present location for over 15 years. Several structures do not meet the setback requirements for the C-A Zone. Most of the structures will be relocated to comply with these requirements. The existing office building requires a variance, as it is set back 1 foot from the northern property line when a 12-foot setback is required. The applicant has filed for a variance (VSE-4464), which basically focuses on the hardship that would be placed on the owner if the permanent building had to be moved to meet the 12-foot setback. This is a compelling argument, especially since the building has existed at this location long before it was occupied by the current business. Staff therefore recommends APPROVAL of SE-4464 subject to the following conditions:

1. The site plan shall be revised as follows:
 - a. The proposed shed shall either be eliminated or reduced in size to no more than 288 square feet. Otherwise, the site plan must conform with all current requirements of the *Landscape Manual*.
 - b. All sheds shall be relocated to meet setback requirements.
 - c. Two additional parking spaces shall be added or a departure from parking and loading spaces must be obtained.

- d. Indicate that the building will be handicapped accessible from the parking area.
- e. Amend Note 5 on the site plan to include the following:
 - “The site is in compliance with Section 27-461(b), Footnote 25, of the Prince George’s County Zoning Ordinance.”
- f. Provide a 16-foot by 19-foot handicap parking space.

Staff further recommends APPROVAL of VSE-4464.