STANDARD APPLICATION

Harford County Board of Appeals

Bel Air, Maryland 21014

RECEIVED FEB 26 2004 HARFORD COUNTY

Case No. 5407
Date Filed 2-25-04
Hearing Date
Receipt
Fee $400.00

Shaded Areas for Office Use Only

Type of Application

- ____ Administrative Decision/Interpretation
- ____ Special Exception
- ____ Use Variance
- ____ Change/Extension of Non-Conforming U
- ____ Minor Area Variance
- X Area Variance
- ____ Variance from Requirements of the Cod
- ____ Zoning Map/Drafting Correction
- ____

Nature of Request and Section(s) of Code

CASE 5407 **MAP** 55 **TYPE** Variance

ELECTION DISTRICT 3 **LOCATION** 2310 & 2312 Bel Air Road, Bel Air, Md.

BY BBW Partnership and Fallston Commercial Subdivision Property Owners Association, Inc.

1301 York Road, Suite 302, Lutherville, Md. 21093

Appealed because a variance pursuant to Section 267-49A(1) of the Harford County Code to operate a Housing for the Elderly use on less than the required 10 acres (4.82 acres proposed) in a B3 District requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name BBW Partnership Phone Number call attorney

Address Suite 302 (*Street Number*) 1301 York Road (*Street*) Lutherville (*City*) MD (*State*) 21093 (*Zip Code*)

Co-Applicant Fallston Commercial Subdivision Property Owners Association, Inc. Phone Number call attorney

Address Suite 302 (*Street Number*) 1301 York Road (*Street*) Lutherville (*City*) MD (*State*) 21093 (*Zip Code*)

Contract Purchaser N/A Phone Number

Address (*Street Number*) (*Street*) (*City*) (*State*) (*Zip Code*)

Attorney/Representative John J. Gessner Phone Number 410-893-7500

Address 11 S. Main Street (*Street Number*) Bel Air (*Street*) MD (*City*) 21014 (*State*) (*Zip Code*)

Rev. 12/00

Land Description

Address and Location of Property Lot 3, 1.053 AC 2312 Bel Air Road; Lot 4, 2.254 AC 2310 Bel Air Road; Private Road; Storm water management area (Plat 56/66)

Subdivision _____ Lot Number 3, 4

Acreage/Lot Size 4.82± Election District Third Zoning B-3

Tax Map No. 55 Grid No. 3C Parcel 272 Water/Sewer: Private _____ Public X

List ALL structures on property and current use: vacant

Estimated time required to present case: 30 minutes

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? No

Is this property located within the County's Chesapeake Bay Critical Area? Yes_____ No X

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes _____ No X

Is this request within one (1) mile of any incorporated town limits? Yes _____ No X

Request

see attached

Justification

see attached

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

1 : 2/25/04
2 : 18941.doc
205684

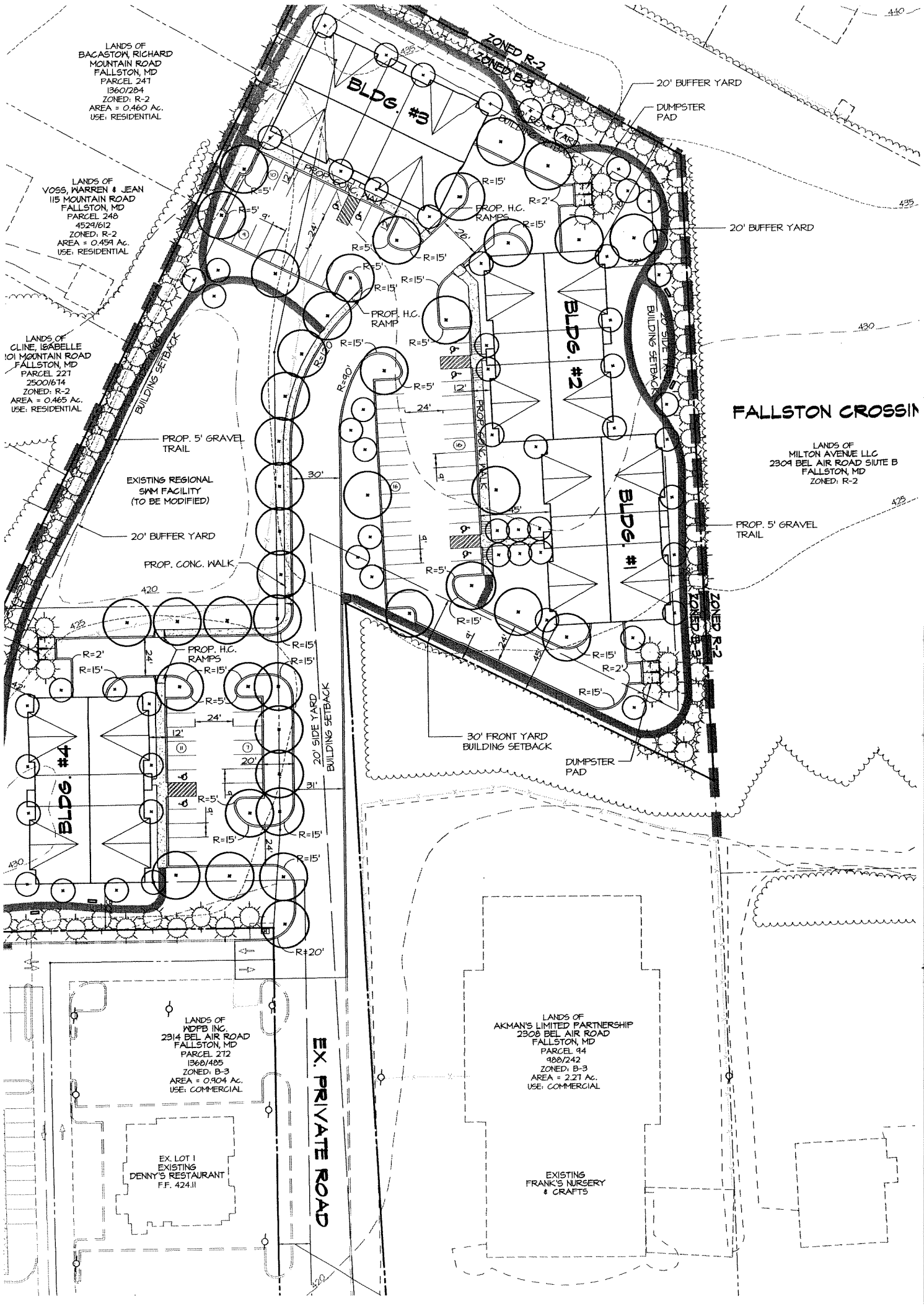
ATTACHMENT TO APPLICATION OF BBW PARTNERSHIP AND FALLSTON COMMERCIAL SUBDIVISION PROPERTY OWNERS ASSOCIATION, INC.

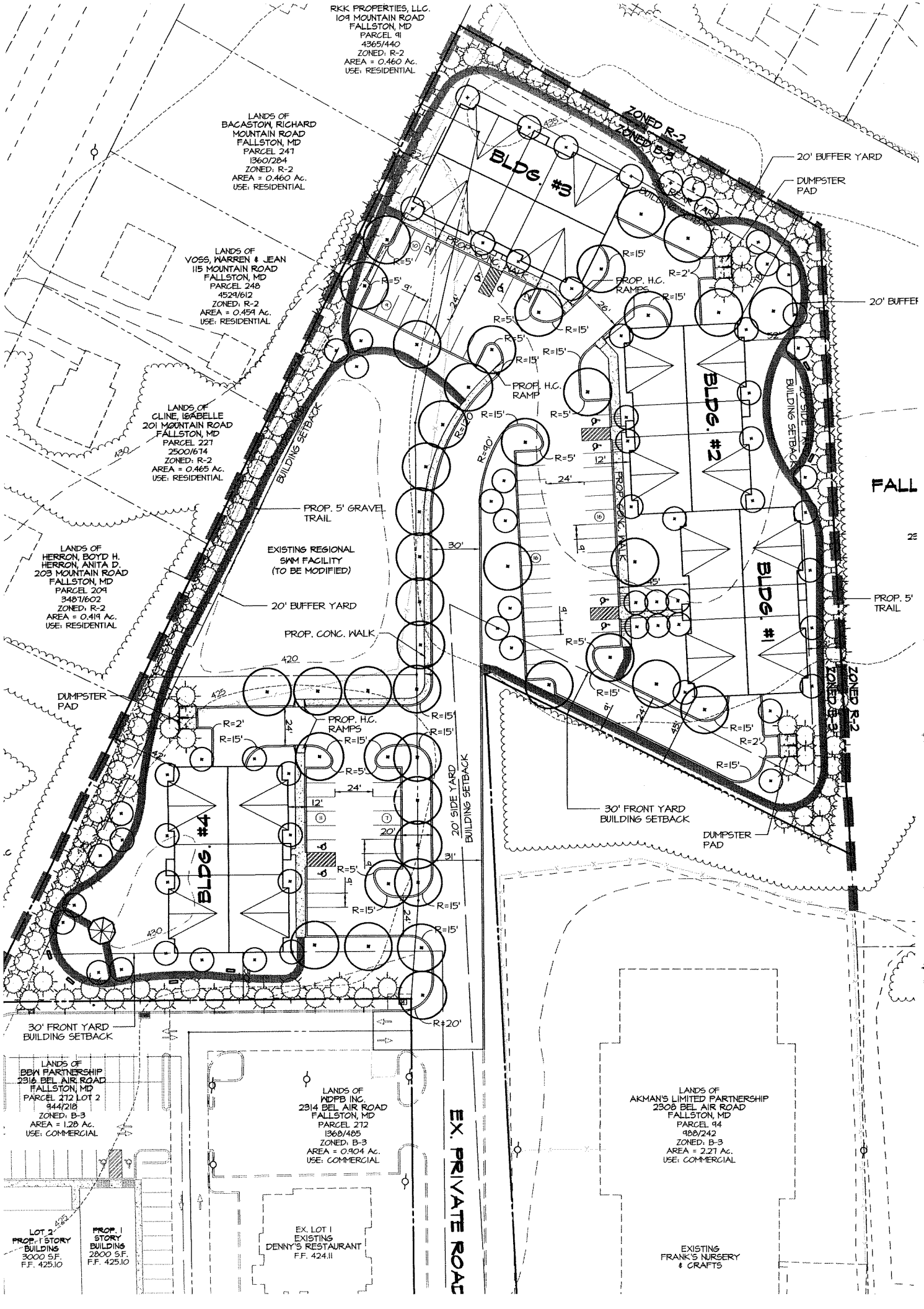
REQUEST:

A variance pursuant to Section 267-11 of the Harford County Zoning Code ("Code") to operate a Housing For The Elderly use on the subject property, zoned B-3, General Business District, with a minimum lot size of less than ten (10) acres (4.82 acres proposed) as shown on the attached site plan.

JUSTIFICATION:

By reason of its configuration, location and other factors, the subject property is unique. The literal enforcement of the Code would result in practical difficulty or unreasonable hardship to the Applicants. Granting the requested variance would not be substantially detrimental to adjacent property owners and will not materially impair the purpose of the Code or the public interest.


LANDS OF
BACASTOW, RICHARD
MOUNTAIN ROAD
FALLSTON, MD
PARCEL 247
1360/284
ZONED: R-2
AREA = 0.460 Ac.
USE: RESIDENTIAL
LANDS OF
VOSS, WARREN & JEAN
115 MOUNTAIN ROAD
FALLSTON, MD
PARCEL 248
4529/612
ZONED: R-2
AREA = 0.459 Ac.
USE: RESIDENTIAL
LANDS OF
CLINE, ISABELLE
101 MOUNTAIN ROAD
FALLSTON, MD
PARCEL 227
2500/674
ZONED: R-2
AREA = 0.465 Ac.
USE: RESIDENTIAL
ZONED R-2
ZONED B-3
BLDG. #3
BLDG. #2
BLDG. #1
BLDG. #4
20' BUFFER YARD
DUMPSTER PAD
PROP. CONC. WALK
PROP. H.C. RAMPS
PROP. H.C. RAMP
BUILDING SETBACK
20' SIDE YARD BUILDING SETBACK
FALLSTON CROSSIN
LANDS OF
MILTON AVENUE LLC
2309 BEL AIR ROAD SIUTE B
FALLSTON, MD
ZONED: R-2
PROP. 5' GRAVEL TRAIL
EXISTING REGIONAL SWM FACILITY (TO BE MODIFIED)
30' FRONT YARD BUILDING SETBACK
LANDS OF
WDPB INC.
2314 BEL AIR ROAD
FALLSTON, MD
PARCEL 272
1368/485
ZONED: B-3
AREA = 0.904 Ac.
USE: COMMERCIAL
EX. LOT 1
EXISTING
DENNY'S RESTAURANT
F.F. 424.11
EX. PRIVATE ROAD
LANDS OF
AKMAN'S LIMITED PARTNERSHIP
2308 BEL AIR ROAD
FALLSTON, MD
PARCEL 94
988/242
ZONED: B-3
AREA = 2.27 Ac.
USE: COMMERCIAL
EXISTING
FRANK'S NURSERY
& CRAFTS


RKK PROPERTIES, LLC.
109 MOUNTAIN ROAD
FALLSTON, MD
PARCEL 91
4365/440
ZONED: R-2
AREA = 0.460 Ac.
USE: RESIDENTIAL
LANDS OF
BACASTOW, RICHARD
MOUNTAIN ROAD
FALLSTON, MD
PARCEL 247
1360/284
ZONED: R-2
AREA = 0.460 Ac.
USE: RESIDENTIAL
LANDS OF
VOSS, WARREN & JEAN
115 MOUNTAIN ROAD
FALLSTON, MD
PARCEL 248
4529/612
ZONED: R-2
AREA = 0.454 Ac.
USE: RESIDENTIAL
LANDS OF
CLINE, ISABELLE
201 MOUNTAIN ROAD
FALLSTON, MD
PARCEL 227
2500/674
ZONED: R-2
AREA = 0.465 Ac.
USE: RESIDENTIAL
LANDS OF
HERRON, BOYD H.
HERRON, ANITA D.
203 MOUNTAIN ROAD
FALLSTON, MD
PARCEL 209
3487/602
ZONED: R-2
AREA = 0.419 Ac.
USE: RESIDENTIAL
ZONED R-2
ZONED B-3
BLDG. #3
BLDG. #2
BLDG. #1
BLDG. #4
20' BUFFER YARD
DUMPSTER PAD
PROP. CONC. WALK
PROP. H.C. RAMPS
PROP. H.C. RAMP
BUILDING SETBACK
20' SIDE YARD BUILDING SETBACK
PROP. 5' GRAVEL TRAIL
EXISTING REGIONAL SWM FACILITY (TO BE MODIFIED)
PROP. 5' TRAIL
30' FRONT YARD BUILDING SETBACK
LANDS OF
BBW PARTNERSHIP
2316 BEL AIR ROAD
FALLSTON, MD
PARCEL 272 LOT 2
944/218
ZONED: B-3
AREA = 1.28 Ac.
USE: COMMERCIAL
LANDS OF
WDPB INC.
2314 BEL AIR ROAD
FALLSTON, MD
PARCEL 272
1368/485
ZONED: B-3
AREA = 0.904 Ac.
USE: COMMERCIAL
LANDS OF
AKMAN'S LIMITED PARTNERSHIP
2308 BEL AIR ROAD
FALLSTON, MD
PARCEL 94
988/242
ZONED: B-3
AREA = 2.27 Ac.
USE: COMMERCIAL
EX. PRIVATE ROAD
LOT 2
PROP. 1 STORY BUILDING
3000 S.F.
F.F. 425.10
PROP. 1 STORY BUILDING
2800 S.F.
F.F. 425.10
EX. LOT 1
EXISTING
DENNY'S RESTAURANT
F.F. 424.11
EXISTING
FRANK'S NURSERY
& CRAFTS

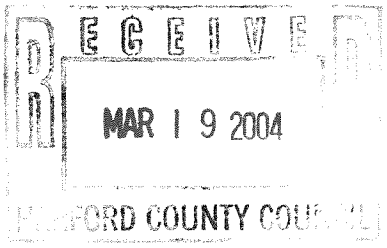
JAMES M. HARKINS
HARFORD COUNTY EXECUTIVE

JOHN J. O'NEILL, JR.
DIRECTOR OF ADMINISTRATION

J. STEVEN KAII-ZIEGLER
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning



March 19, 2004

STAFF REPORT

BOARD OF APPEALS CASE NO. 5407

APPLICANT:	BBW Partnership 1301 York Road, Suite 302 Lutherville, MD 21093
CO-APPLICANT:	Fallston Commercial Subdivision Property Owner's Association, Inc. 1301 York Road, Suite 302 Lutherville, MD 21093
ATTORNEY:	John J. Gessner 11 South Main Street Bel Air, MD 21014
LOCATION:	2310 & 2312 Bel Air Road North side of Bel Air Road, east of Mountain Road (MD 152) Tax Map 55 / Grid 3C / Parcel 272 Election District: Third
ACREAGE:	4.82 acres
ZONING:	B3 – General Business
DATE FILED:	February 25, 2004
HEARING DATE:	April 7, 2004

APPLICANTS' REQUEST and JUSTIFICATION:

See Attachment 1.

CODE REQUIREMENTS:

The Applicants are requesting a variance pursuant to Section 267-49A(1) of the Harford County Code to operate a Housing for the Elderly use on less than the required 10 acres (4.82 acres proposed) in a B3 District.

267-49 – Housing for the Elderly

A. Eligibility. Housing for the elderly shall have the following requirements:

(1) In the B3 and CI Districts, the minimum lot size shall be ten acres. In the R1, R2, R3, R4, VR, and VR Districts, the minimum lot size shall be four acres.

The Harford County Code, pursuant to Section 267-11 permits area variances provided the Board finds that:

(1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.

(2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.

In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of this Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.

If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.

LAND USE and ZONING ANALYSIS:

Land Use - Master Plan:

The subject property is located on the north side of Bel Air Road (US Route 1), east of Mountain Road (MD Route 152). Enclosed with the report are copies of location maps, and a copy of the Applicants' site plan. (Attachments 2 and 3)

The land use designations in the area in the vicinity of the subject property include High Intensity, Rural Residential, and Agricultural/AG Residential. The Natural Features Map reflects stream buffer systems. The subject property is designated as High Intensity, which is defined by the 1996 Land Use Plan as:

> **High Intensity** – Areas within the Development Envelope where residential development occurs at a density greater than 7.0 dwelling units per acre. Major retail commercial centers and highway-related businesses, such as automobile dealerships and home improvement centers, are examples of some of the most intensive uses associated with this designation.

Enclosed with the report is a copy of the 1996 Land Use Map and Natural Features Map, reflecting the general area of the subject property. (Attachments 4 and 5)

Land Use - Existing:

The land uses in this area of the County include a mixture of commercial and residential. The frontage along US Route 1 includes retail, service, motor vehicle and restaurant uses. The entrance into the site is between a Denny's Restaurant and a Frank's retail store. There are existing residences to the north and west bordering this site. In addition, a residential development is under construction north of the site on Milton Avenue at the old Fallston Hospital site. Enclosed with the report is a copy of the 2000 aerial photograph. (Attachment 6) The aerial photograph does not depict the recent residential construction to the north.

The subject property is unimproved with forest bordering and buffering from adjacent uses. Enclosed with the report are site photographs. (Attachments 7A-F)

Zoning:

The zoning classifications in this area are consistent with the 1996 Master Plan and 1996 Land Use Element Plan. The zoning classifications in this area range from AG – Agricultural and R2 - Urban Residential to B2 – Community Business, B3 – General Business and CI – Commercial Industrial. Enclosed with the report is a copy of the zoning map. The subject property is zoned B3 – General Business. (Attachment 8)

SUMMARY:

The Applicants are requesting a variance pursuant to Section 267-49A(1) of the Harford County Code to operate a Housing for the Elderly use on less than the required 10 acres (4.82 acres proposed) in a B3 District.

Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds that by reason of the uniqueness of the property or topographical conditions, the literal enforcement of the Code would result in practical difficulty or unreasonable hardship. Furthermore, the Applicants must prove that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

The subject property consists of 4.82 acres and is unimproved. The property is bordered on three sides by R2 – Urban Residential zoning and two sides are adjacent to existing residences. The development of this property for commercial uses permitted in the zoning district could have a greater impact on the adjacent residential properties than the proposed use. This parcel is unique in its configuration and location in relation to the surrounding residential uses and zoning.

The Applicants can meet or exceed all the other requirements of the Harford County Code for Housing for the Elderly uses within the B3 – General Business zoning district. This proposed use at this location would provide an appropriate transition from the single-family residential uses to the more intensive commercial along Bel Air Road.

RECOMMENDATION and/or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends approval of the requested variance subject to the following conditions:

1. The Applicants submit a preliminary plan generally consistent with the plan submitted to the Board for review and approval through the Development Advisory Committee.

2. A final plat consolidating the lots be submitted to the Department of Planning and Zoning for recordation in the Harford County land records.

3. The Applicants submit a landscaping and lighting plan providing adequate buffering and screening to the adjacent residential uses to the Department of Planning and Zoning for review and approval at the time of preliminary plan review.

Nancy A. Lipski
Chief, Site Plan & Permits Review

Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

NAL/ASM/ka