STANDARD APPLICATION

Harford County Board of Appeals

Bel Air, Maryland 21014

RECEIVED JAN 6 HARFORD COUNTY COUNCIL

Case No. 5468
Date Filed
Hearing Date
Receipt
Fee $850

Shaded Areas for Office Use Only

Type of Application

- ___ Administrative Decision/Interpretation
- X Special Exception
- ___ Use Variance
- ___ Change/Extension of Non-Conforming Use
- ___ Minor Area Variance
- 1 Area Variance
- ___ Variance from Requirements of the Code
- ___ Zoning Map/Drafting Correction
- ___ _____

Nature of Request and Section(s) of Code

CASE 5468 **MAP** 51 **TYPE** Special Exception and Variance

ELECTION DISTRICT 03 **LOCATION** 3402 Carvale Dr. Aberdeen

BY Gerald and Hope Shelton, 1103 Carsins Run Rd., Aberdeen, MD 21001

Appealed because a special exception pursuant to Sec. 267-53D (1) of the Harford County Code to allow storage of commercial vehicles and Sec. 267-53D (3) of the Harford County Code to allow motor vehicle repair and variances pursuant to Sec. 267-53D (1) (c) to allow commercial vehicle storage on a parcel less than two acres; Sec. 267-53D (3) (a) to allow motor vehicle repair shop with less than the required 10' buffer yard to adjacent residential lot; and Sec. 267-34C, Table II to allow a motor vehicle use to encroach the minimum 40' side yard setback in the Ag district requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or Development, mobile home park and Special Exceptions.

Owner (please print or type)

Name Gerald Shelton Phone Number 410 836-2888

Address 3402 Carvale Dr Aberdeen Md 21001
Street Number Street City State Zip Code

Co-Applicant Hope Shelton Phone Number 410-836-2888

Address 1103 CARSINS Run RD Aberdeen MD 21001
Street Number Street City State Zip Code

Contract Purchaser Gerald Shelton Phone Number 410-836-2888

Address 3402 Carvale Dr Aberdeen MD 21001
Street Number Street City State Zip Code

Attorney/Representative _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Land Description

Address and Location of Property 3402 Carvale Dr Aberdeen MD 21001

Subdivision Carsin Vale II Lot Number 14

Acreage/Lot Size 127 Acres 260 Election District 03 Zoning AG

Tax Map No. 0051 Grid No. 0004A Parcel 0934 Water/Sewer: Private yes Public

List ALL structures on property and current use: House, pool, Garage

Estimated time required to present case: 30 min

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

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 ✓

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

Is this request the result of a zoning enforcement investigation? Yes ✓ No ____

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

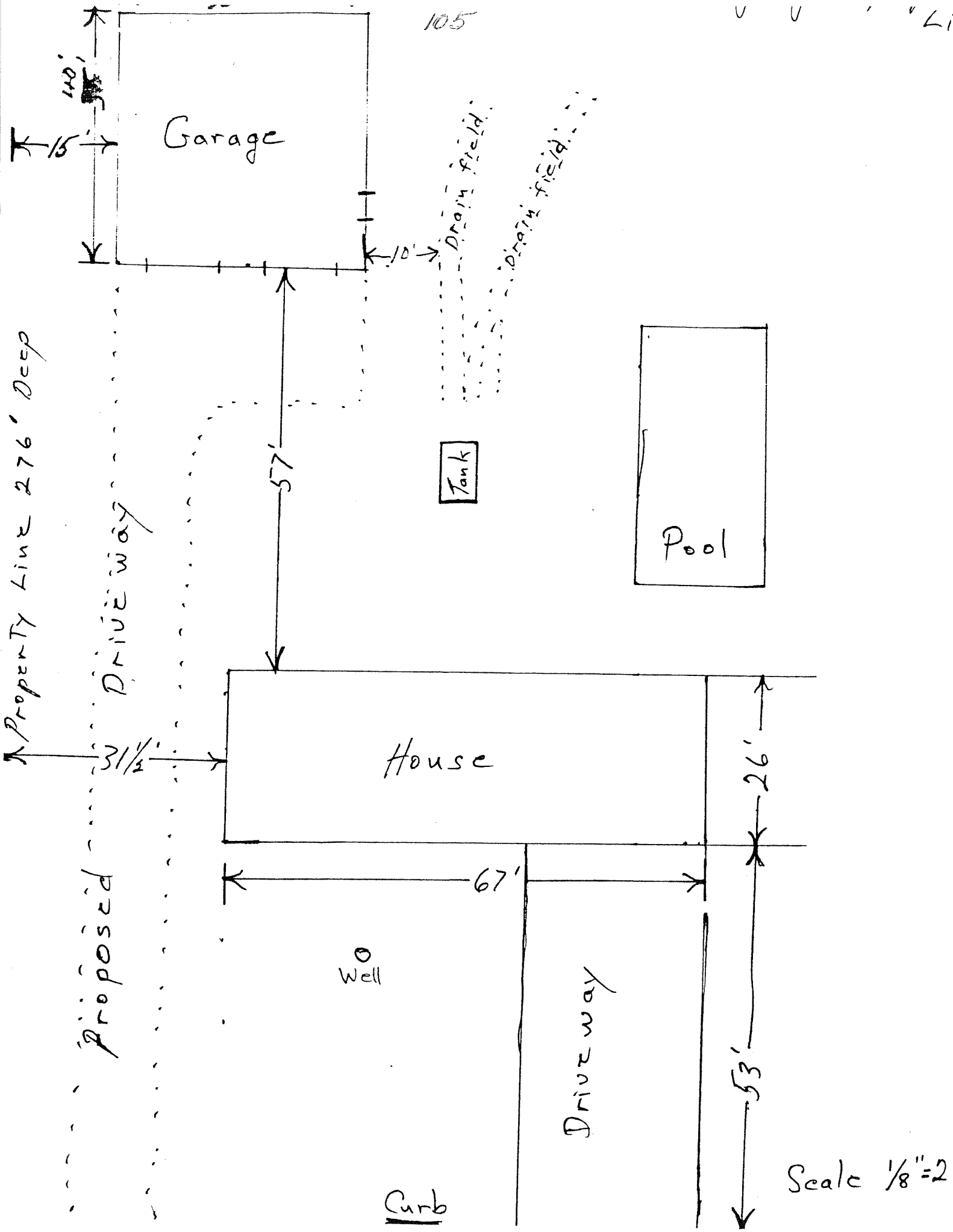
Request

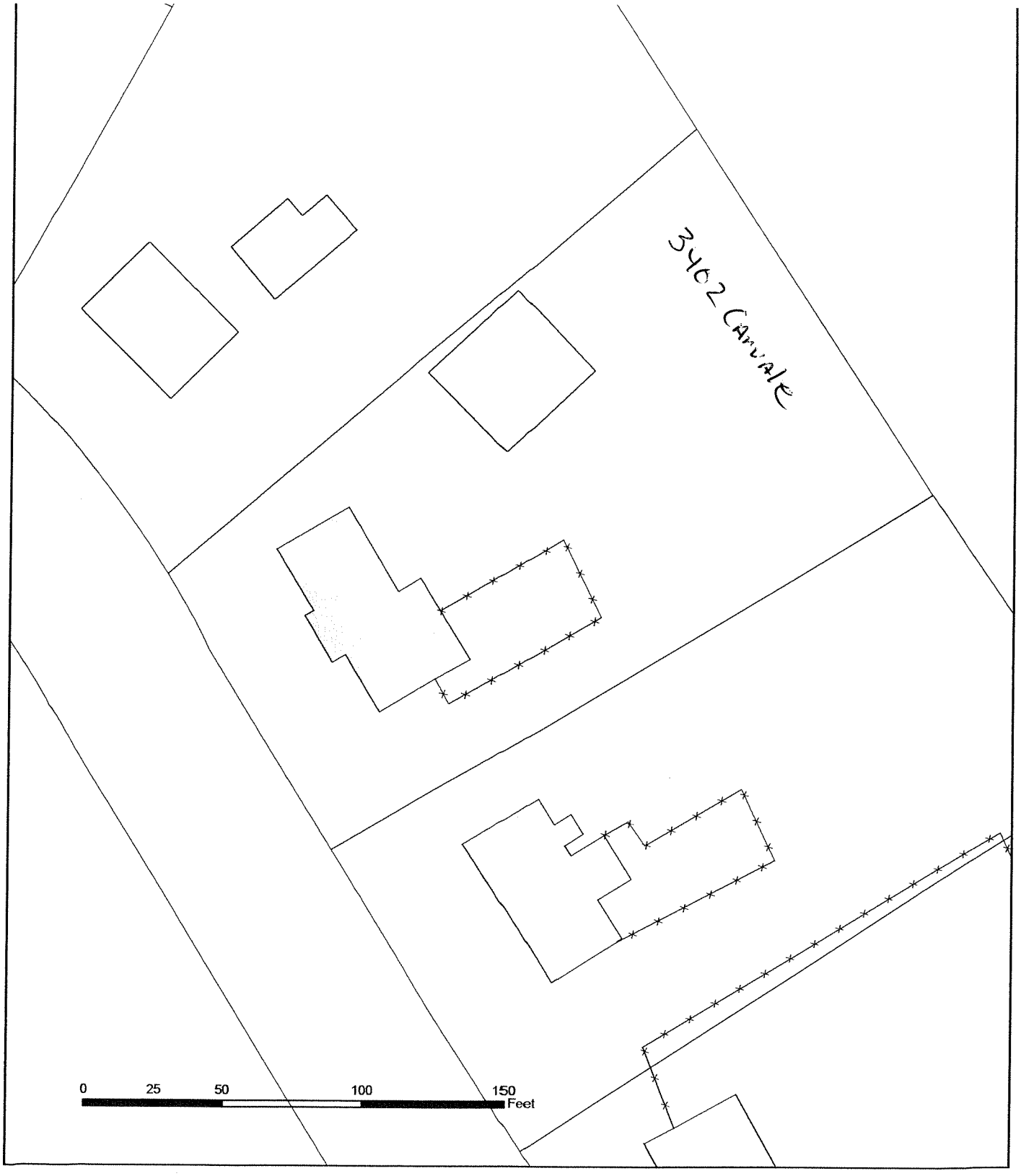
To work on personal Vehicles of my own.
To store commercial vehicles on a Agricultural zoned Propert
To work on Commercial owned vehicles on Agricultural zone
To have a variance from a 1 acre lot to 2 acre requirements

Justification

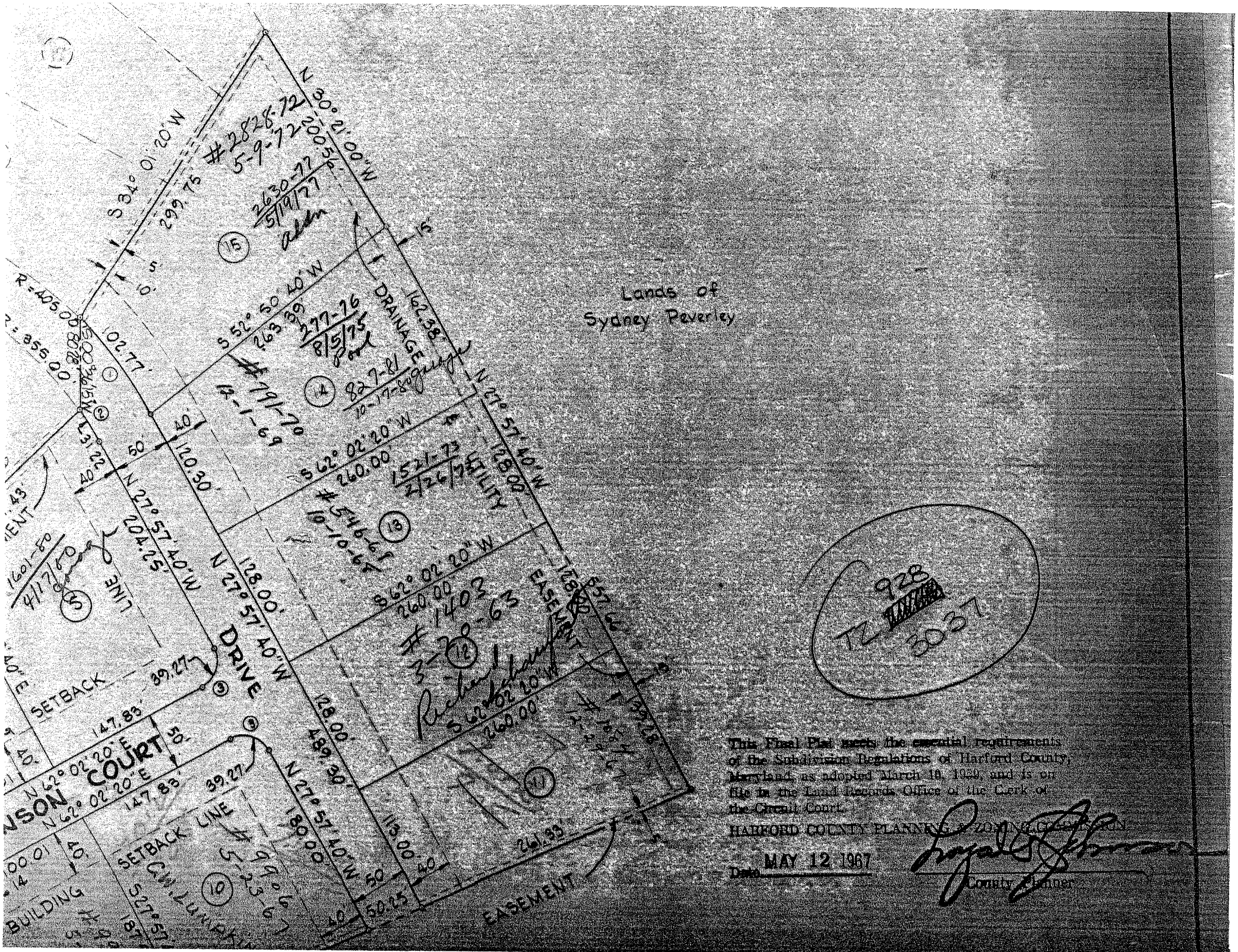
We have been looking for a garage in our area for a while and we are unable to find anything. The last two garage's we were renting were sold to other people. We would just like to work on our own vehicles which is a small number. There are many properties around ours that are aloud to do the same as we are asking.

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.)


Garage
15'
40'
10'
Drain field
Drain field
Tank
Pool
57'
Property Line 276' Deep
Driveway
31½'
House
26'
67'
Well
Proposed
Driveway
53'
Curb
Scale 1/8"=2



EA



This Final Plat meets the essential requirements of the Subdivision Regulations of Harford County, Maryland, as adopted March 10, 1959, and is on file in the Land Records Office of the Clerk of the Circuit Court.

HARFORD COUNTY PLANNING & ZONING COMMISSION

Date MAY 12 1967

County Planner

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

February 7, 2005

Department of Planning and Zoning

RECEIVED
FEB 17 2005
HARFORD COUNTY COUNCIL

STAFF REPORT

BOARD OF APPEALS CASE NO. 5468

APPLICANT/OWNER:	Gerald Shelton 3402 Carvale Drive, Aberdeen, Maryland 21001
Co-APPLICANT/OWNER:	Hope Shelton 1103 Carsins Run Road, Aberdeen, Maryland 21001
CONTRACT PURCHASER:	Gerald Shelton 3402 Carvale Drive, Aberdeen, Maryland 21001
REPRESENTATIVE:	Applicant
LOCATION:	3402 Carvale Road/Carsin Vale II Tax Map: 51 / Grid: 4A / Parcel: 934 / Lot: 14 Election District: Third (3)
ACREAGE:	127-feet by 260-feet or 33,020 square feet 0.758 of an acre
ZONING:	AG/Agricultural
DATE FILED:	January 03, 2005
HEARING DATE:	March 7, 2005

APPLICANT'S REQUEST and JUSTIFICATION:

Request:

"To work on personal vehicles of my own. To store commercial vehicles on a Agriculturally zoned property. To work on commercial owned vehicles on Agriculturally zone. To have a variance from a 1 acre lot to 2 acre requirements."

Justification:

"We have been looking for a garage in our area for a while and we are unable to find anything. The last two garages we were renting were sold to other people. We would just like to work on our own vehicles, which is a small number. There are many properties around our area that are allowed to do the same as we are asking."

CODE REQUIREMENTS:

The Applicants are requesting a Special Exception pursuant to Section 267-53D(1) of the Harford County Code to allow storage of commercial vehicles and Section 267-53D(3) of the Harford County Code to allow motor vehicle repair and variances pursuant to Section 267-53D(1)(c) to allow commercial vehicle storage on a parcel less than two (2) acres; Section 267-53D(3)(a) to allow a motor vehicle repair shop with less than 1 acre and less than the required 10-foot buffer yard to adjacent residential lot; and Section 267-34C, Table II to allow a motor vehicle use to encroach the minimum 40-foot side yard setback in the Agricultural District.

Section 267-53D)(1) of the Harford County Code reads:

Section 267-53D(1):

D. Motor Vehicle and related services.

(1) Commercial vehicle and equipment storage and farm vehicle and equipment sales and service. These uses may be granted in the AG District, and commercial vehicle and equipment storage may be granted in the VB District, provide that:

(a) The vehicles and equipment are stored entirely within an enclosed building or fully screened from view of adjacent residential lots and pubic roads.

(b) The sales and service of construction and industrial equipment may be permitted as an accessory use incidental to the sales and service of farm vehicles and equipment.

(c) A minimum parcel area of two (2) acres shall be provided..

Section 267-53D(3) of the Harford County Code reads:

Section 267-53D(3):

(3) [Amended by Bill No. 93-10] Motor Vehicle repair shops. These uses may be granted in the AG and B1 Districts, provided that:

(a) A buffer yard at least 10 feet wide shall be provided along any adjacent road right of way or adjacent residential lot.

(b) The requirements of Section 267-39C(7) of this chapter for service stations and repair shops in the B2 and B3 Districts shall be met.

(c) Unless Board approval is granted, accessory buildings and outdoor storage of vehicles, tires and equipment shall be prohibited.

(d) The operator of the shop shall maintain a log of all vehicles repaired. For each vehicle, the log shall include the vehicle identification number and a description of the vehicle and identify the dates the vehicle arrived and was removed. The log shall be available for inspection during normal business hours. If no log exists, it shall be assumed for the purposes of 267-39C(7)(f) that each vehicle has been stored on the property for 90 days.

(e) The rental or storage of trailers, boats, and trucks shall be prohibited.

(f) Proposed outdoor storage areas and refuse storage areas shall be fenced or screened from adjacent properties and shown on the site plan submitted for Board approval.

(g) Materials, textures, colors and designs of fences, walls and screening shall be compatible with the on-site development, adjacent properties, and the neighborhood. When a wall is required, a planting strip at least 5-feet wide shall be provided also and shall include trees and shrubs that are at least 2-feet high when planted and that may be expected to form a year-round dense screen within 3-years. The location and species of trees and shrubs used for screening shall be chosen with consideration for the size of the trees and shrubs at maturity. Fences, walls, screening, and planting strips shall be located so that they do not constitute sight obstructions for the drivers of vehicles entering or exiting the parcel or any adjacent lot or parcel.

(h) The fumes, odors and noise from the vehicle-related work shall be minimized.

(i) A minimum parcel area of 1-acre shall be required.

(j) In the AG District, the use shall be operated by the resident of the property.

Section 267-39C(7) of the Harford County Code reads:

<u>Section 267-39C(7):</u>

(7) Motor vehicle filling or service stations and repair shops, in the B2 and B3 Districts, provided that:

(a) Pumps shall be at least twenty-five (25) feet from all road right-of-way.

(b) All portions of the lot used for storage or service of motor vehicles shall be paved with a hard surface.

(c) No obstructions which limit visibility at intersection or driveways shall be permitted.

(d) Lighting shall be designed and controlled so that any light shall be shaded, shielded or directed so that the light intensity or brightness shall not adversely affect the operation of vehicles or reflect into residential buildings.

(e) No motor vehicle filling or service station driveway shall be located less than four hundred (400) feet from the property line of any public or private

institutional use, including schools, houses of worship, hospitals, parks or playgrounds.

(f) Vehicles, except those vehicles used in the operation of the business, may not be stored on the property for more than ninety (90) days.

Enclosed with the report is a copy of Section 267-34C, Table II of the Harford County Code (Attachment 1)

Enclosed with the report is a copy of Section 267-51 and 267-52 of the Harford County Code (Attachment 2).

Section 267-9I of the Harford County Code will be discussed in detail later in the report.

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicants' property is located in the eastern portion of the County, northwest of the City of Aberdeen. The property is part of the Carsin Vale II residential subdivision situated on the east side of Carsins Run Road. The lot fronts on Carvale Drive. A location map and a copy of the Applicants' site plan are enclosed with the report (Attachments 3 and 4).

The subject property is located outside of the Development Envelope. The predominant land use designation in this area of the County is Agricultural. The Natural Features Map reflects Stream Systems and Agricultural Preservation Districts and Easements. The subject property is designated as Agricultural, which is defined by the 2004 Master Plan as:

> **Agricultural** – Areas where agriculture is the primary land use, but where development rights are available. Residential development is possible at a density of 1.0 dwelling unit for every 10 acres. Commercial uses within this area are intended to serve the agriculture industry or residents of the area while maintaining the character of the surrounding countryside.

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 5 and 6).

Land Use – Existing:

The existing land uses in this area of the County are consistent with the 2004 Master Plan. The predominant land use is Agriculture with active cropland, pastureland and large areas of dense woodland. There are also several single family residential subdivisions in the area. Commercial uses are generally located within the City of Aberdeen. The topography of the area is rolling to steep especially near the stream valleys. Enclosed with the report is a copy of the topography map along with the aerial photograph (Attachments 7 and 8).

The Applicants' lot is located in the residential development of Carsins Vale II, which is a small single-family subdivision recorded in 1965 (Attachment 9). The subject lot is rectangular shape with frontage on Carvale Drive and is approximately 0.758 of an acre in size. The topography ranges from level to gently sloping. Improvements consist of a brick and frame rancher with an attached 1-car garage, a large block and frame 2-car garage with storage area above, situated to the left and rear of the dwelling. Other improvements include an in-ground pool with 4-foot chain link fence around the pool. There is a paved parking area in front of the dwelling and a gravel lane back to the garage. There is a large parking area between the garage and the dwelling. The lot contains mature trees and shrubbery and backs up to a large area of dense woodland. Enclosed with the report are site photographs along with an enlargement of the aerial photograph (Attachments 10 and 11).

On the day of inspections it was observed that there were several untagged and/or inoperable vehicles in front of the house, in front of the garage, behind the garage and next to the woods. In addition there were stacks of tires and auto parts to the front and left of the garage and to the rear of the garage. There were also two untagged roll back trucks on the property.

Zoning:

The zoning classifications in the area are consistent with the intent of the 2004 Master Plan as well as the existing land uses. The predominant zoning classification is AG/Agricultural. There are a few scattered areas of RR/Rural Residential. Commercial zoning is limited to areas along Route 22 and within the City limits of Aberdeen. The subject property is zoned AG/Agricultural as shown on the enclosed copy of the Zoning map (Attachment 12).

Zoning Enforcement:

The subject case is the result of a Zoning Enforcement investigation. This Department received a complaint on July 12, 2004, that the homeowner had numerous commercial vehicles always on the property. This Department conducted an inspection on July 16, 2004 which revealed that Mr. Shelton is using the garage at the site to repair vehicles for his businesses, "American Septic" and "G&H Transportation", "AKA-Victory Cab Co.". Mr. Shelton who resides at 1103 Carsin Run Road advised the inspector by telephone that he does not have an office at the Carvale Drive location. However, he does have an office in his home. Copies from the file are included for informational purposes (Attachment 13).

SUMMARY:

The Applicants are requesting a Special Exception pursuant to Section 267-53D(1) of the Harford County Code to allow storage of commercial vehicles and Section 267-53D(3) of the Harford County Code to allow motor vehicle repair and variances pursuant to Section 267-53D(1)(c) to allow commercial vehicle storage on a parcel less than two (2) acres; Section 267-53D(3)(a) to allow a motor vehicle repair shop with less than 1 acre and less than the required

10-foot buffer yard to adjacent residential lot; and Section 267-34C, Table II to allow a motor vehicle use to encroach the minimum 40-foot side yard setback in the Agricultural 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 by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the applicant must show 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.

Section 267-53D(1):

D. Motor Vehicle and related services.

(1) Commercial vehicle and equipment storage and farm vehicle and equipment sales and service. These uses may be granted in the AG District, and commercial vehicle and equipment storage may be granted in the VB District, provide that:

The subject property is zoned AG/Agricultural.

(a) The vehicles and equipment are stored entirely within an enclosed building or fully screened from view of adjacent residential lots and pubic roads.

On the day of inspection there were 2-cars in the garage being repaired, one outside of the garage being repaired and untagged or inoperable vehicles including 2-roll back trucks behind the garage and along the rear property line next to the woods. Sitting to the right side and in front of the garage was another roll back truck. To the left and in front of the garage were stacks of tires and auto parts as well as behind the garage and on the roll back truck next to the woods. There were also untagged vehicles in front of the dwelling sitting on the driveway. The vehicles and parts/tires are visible from the road and the adjacent properties.

(b) The sales and service of construction and industrial equipment may be permitted as an accessory use incidental to the sales and service of farm vehicles and equipment.

The Applicant states that he wishes to work on his commercial vehicles. Mr. Shelton apparently operates a cab company and a septic hauling business.

(c) A minimum parcel area of two (2) acres shall be provided..

The subject lot is less than 1 acre in size, therefore it does not meet the 2-acre requirement. The applicant has requested a variance from this requirement.

Section 267-53D(3):

(3) [Amended by Bill No. 93-10] Motor Vehicle repair shops. These uses may be granted in the AG and B1 Districts, provided that:

The subject property is zoned AG/Agricultural.

(a) A buffer yard at least 10 feet wide shall be provided along any adjacent road right of way or adjacent residential lot.

The garage sits to the rear of the dwelling along the left side of the lot. According to the Applicants' site plan there is approximately 15 feet between the garage and the property line.

(b) The requirements of Section 267-39C(7) of this chapter for service stations and repair shops in the B2 and B3 Districts shall be met.

These requirements will be discussed later in the report.

(c) Unless Board approval is granted, accessory buildings and outdoor storage of vehicles, tires and equipment shall be prohibited.

The applicant has not requested approval for outside storage. However, there are parts and tires already stored outside on the property. These items are easily seen from adjacent properties and the road.

(d) The operator of the shop shall maintain a log of all vehicles repaired. For each vehicle, the log shall include the vehicle identification number and a description of the vehicle and identify the dates the vehicle arrived and was removed. The log shall be available for inspection during normal business hours. If no log exists, it shall be assumed for the purposes of 267-39C(7)(f) that each vehicle has been stored on the property for 90 days.

If the request is approved the Department would conduct periodic inspections to address the issues under this section.

(e) The rental or storage of trailers, boats, and trucks shall be prohibited.

The applicant has not requested a variance from this requirement.

(f) Proposed outdoor storage areas and refuse storage areas shall be fenced or screened from adjacent properties and shown on the site plan submitted for Board approval.

The property is not big enough to accommodate outside storage.

(g) Materials, textures, colors and designs of fences, walls and screening shall be compatible with the on-site development, adjacent properties, and the neighborhood. When a wall is required, a planting strip at least 5-feet wide shall be provided also and shall include trees and shrubs that are at least 2-feet high when planted and that may be expected to form a year-round dense screen within 3-years. The location and species of trees and shrubs used for screening shall be chosen with consideration for the size of the trees and shrubs at maturity. Fences, walls, screening, and planting strips shall be located so that they do not constitute sight obstructions for the drivers of vehicles entering or exiting the parcel or any adjacent lot or parcel.

The applicant has not provided the Department with a proposed screening/landscaping plan.

(h) The fumes, odors and noise from the vehicle-related work shall be minimized.

The garage is located only 15 feet from the property line and some of the work appears to take place outside. Given the size of the property, the Department believes that noise, odors and fumes would create an adverse impact at this site.

(i) A minimum parcel area of 1-acre shall be required.

The parcel is less than 1 acre in size and therefore does not meet the minimum requirement. The applicant has requested a variance from this requirement.

(k) In the AG District, the use shall be operated by the resident of the property.

The Applicants' residence appears to be 1103 Carsins Run Road. Therefore, the applicant would be required to move his personal residence to this property if approved.

<u>Section 267-39C(7):</u>

(7) Motor vehicle filling or service stations and repair shops, in the B2 and B3 Districts, provided that:

(a) Pumps shall be at least twenty-five (25) feet from all road right-of-way.

No gas pumps are proposed.

(b) All portions of the lot used for storage or service of motor vehicles shall be paved with a hard surface.

The applicant would be required to pave all driveways and parking areas. This may cause an issue with stormwater management on a property this size.

(c) No obstructions which limit visibility at intersection or driveways shall be permitted.

The applicant would be required to meet this requirement.

(d) Lighting shall be designed and controlled so that any light shall be shaded, shielded or directed so that the light intensity or brightness shall not adversely affect the operation of vehicles or reflect into residential buildings.

Given the size of this property and the proximity to adjacent dwellings, the ability to comply with this provision would be problematic.

(e) No motor vehicle filling or service station driveway shall be located less than four hundred (400) feet from the property line of any public or private institutional use, including schools, houses of worship, hospitals, parks or playgrounds.

Not applicable to the request.

(f) Vehicles, except those vehicles used in the operation of the business, may not be stored on the property for more than ninety (90) days.

The applicant must demonstrate how this requirement will be met.

Variances:

The Applicant is unable to meet the acreage requirements and setback requirement at this site and is seeking variances to allow the use on the subject property. The Applicant is required to show that his property is unique based on Section 267-11 of the Harford County Code.

All of the lots in this development are similar in size, shape and topography. There is no justification to allow this type of use on a property this small. The property currently contains untagged and/or inoperable vehicles, stacks of tires and auto parts. It is the opinion of this Department that the use is not appropriate for this site. The variances, if approved, would adversely impact the intent of the code and the neighborhood.

Section 267-9I:

(1) The number of persons living or working in the immediate area.

The proposed use on this site would have an adverse impact on individuals living in the area.

(2) Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.

Carvale Drive is a minor road and was designed to serve a residential subdivision, not commercial uses.

(3) The orderly growth of the neighborhood and community and the fiscal impact on the county.

The proposed use is not consistent with the orderly growth of the neighborhood.

(4) The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.

Given the size of the applicants' property and the close proximity of adjacent dwellings, odors, noise and fumes from the proposed use will negatively impact adjacent properties.

(5) Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.

The Harford County Sheriff's Office and the Maryland State Police will provide police protection. The Level and Aberdeen Volunteer Fire Departments will provide the primary fire protection and emergency assistance. The property is presently served by a well and onsite septic system. The Applicant is required to arrange for trash and collection with a private hauler.

(6) The degree to which the development is consistent with generally accepted engineering and planning principles and practices.

The request is not consistent with accepted planning principles or practices.

(7) The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.

There are no institutional uses located near this lot.

(8) The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.

The proposed use of this property is not consistent with the Master Plan.

(9) The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.

There does not appear to be any containment measures in place that would prevent the spills from entering into the ground water supply. All of the lots in this development are served by private wells. Because the lots are so small there is very little separation between the proposed use and adjacent wells.

(10) The preservation of cultural and historic landmarks.

Not applicable to the request.

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning finds that the requested Special Exceptions are not appropriate at this location. The variances, as requested, are also not appropriate or justified for this property. Therefore, the Department recommends that the request be denied.

Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review

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

DJS/ASM/jf