Tax Map/Block/Parcel
No. 59 17 654

Building Permit/Zoning
Certificate

Case ZA-472

Official Decision
Zoning Administrator
Carroll County, Maryland

APPLICANT:	Charles E. Hare 2922 Finksburg Industrial Park Dr. Finksburg, MD 21048
REQUEST:	A variance reducing the minimum required front yard setback from 50 feet to 30 feet for a commercial building
LOCATION:	2922 Finksburg Industrial Park Dr. Finksburg, MD 21048, E.D.4
APPLICABLE REGULATIONS:	Article 12, Section 12.5, Article 15, Section 15.5; Zoning Ordinance 1E
HEARING HELD:	August 4, 1999

FINDINGS & CONCLUSIONS

Based on the testimony and evidence presented at the hearing, the variance is granted.

Facts which support the request for relief from the strict terms of the Ordinance, in this case, a reduction of two front yard minimum requirements for a building, are as follows:

This site has a uniqueness and peculiarity to others within the Finksburg Industrial Park. The site as it is situated, has three (3) front yards.

The Zoning Ordinance describes a front yard as follows:

> (A) "A yard extending across the full width of the lot and lying between the front lot line and the nearest line of the principal building. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as required herein, except that not more than one rear yard shall be required."

Having three (3) sides of the property classified as front yards and required to meet those required setbacks are in and of itself unique and unusual in a manner different from the nature of surrounding properties. Thusly the uniqueness and peculiarity of this property cause the zoning provisions to impact disproportionately upon the property.

When the plat for this parcel was approved by the Planning Commission in 1976 and recorded a fifty (50) foot minimum building line was set for the front yard adjacent to Md. Route 91 (Emory Road). A fifty (50) foot MBL was set for Industrial Park Drive. The property line adjacent to Horace Brauning Drive was given a side yard setback of thirty (30) feet as Horace Brauning Drive was classified as a private road and did not meet the ordinance definition of "street."

Acceptance of the site plan by the Planning Commission would require the property line adjacent to Horace Brauning Drive to be considered a front yard. As the front yard definition describes a front yard adjacent to "street" the definition of "street" now comes into play. Street is defined as follows:

> "any street existing <u>or which may be approved</u> by the Commission. The word "street" may also include "road", "highway", "boulevard", "avenue", "lane", "way", "circle", "court", or "drive".

Md. Rt. 91 (Emory Road) adjacent to this parcel is limited access by SHA and in fact access would be impossible due to grade topography. This therein adds disproportionately upon the property and the difficulty of having to meet the setbacks for three front yards.

Being on private facilities, well and septic further diminish the buildable area for this site creating a hardship for an owner to place uses allowed in an Industrial District on this site. Additional parcels in this Industrial Park have been granted similar variances.

It should be noted that this Industrial Park is not located with many accesses to a major public road. Industrial Park Drive is the only ingress and egress to Md. Rt. 91 or any other street as it is not an approved through street.

Lessening the setbacks therefore will have no adverse effect on adjoining properties. The approval is hereby as follows and with the conditions thereto.

1. Approval of a front yard variance for the property line adjacent to Horace Brauning Drive from fifty (50) feet to thirty (30) feet.

2. Approval of a front yard variance for the property line adjacent to Md. Rt. 91 (Emory Road) from fifty (50) feet to thirty (30) feet.

<u>Conditions:</u>

1. That the applicant/owner and subsequent owners of this property establish a means of preventing this parcel from being a means of through traffic from Industrial Park Drive to Horace Brauning Drive. Applicant at the hearing suggested some type of gate. Electronic control or some similar mechanism is also supported by this authority.

2. That the Planning Commission and State Highway base their approvals upon an exit only onto Md. Rt. 91 from Horace Brauning Drive.

NOTE:

Appeals of decisions made pursuant to Section 15.5 may be made to the Board of Zoning Appeals within thirty (30) days of the date of the Zoning Administrators decision in accordance with Section 17.4 of the Carroll County Zoning Ordinance 1E.

A decision of the Zoning Administrator made pursuant to Section 15.5 is final, and constitutes a zoning action. Unless timely appealed, parties may not thereafter challenge the Zoning Administrator's decision.

August 6, 1999

Date

George L. Beisser

George L. Beisser
Zoning Administrator

cc: Zoning Enforcement

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