Tax Map/Block/Parcel
No. 77-17 & 23-467

Building Permit/Zoning
Certificate No. 04-0579

Case 4931

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT:	M.T. Laney, Inc. 5400 Enterprise Street Eldersburg, MD 21048
ATTORNEY:	Clark R. Shaffer
REQUEST:	An application for a conditional use for a bituminous concrete (blacktop) mixing plant and variances from the height requirements of no more than 30 ft. for storage silos and from distance requirements of 600 ft. to about 300 ft. (formerly 500 ft., but amended at the request of Applicant on August 4, 2004).
LOCATION:	The site is located on the west side of Rt. 97, Woodbine, MD, on property zoned "I-G" General Industrial District in Election District 14.
BASIS:	Code of Public Local Laws and Ordinances, Chapter 223-126 B, 223-128, 223-182 B, 223-186 A (2) and 223-191
HEARING HELD:	April 28, June 3, August 3, September 2 & 3, and October 1, 2004

FINDINGS AND CONCLUSION

On April 28, June 3, August 3, September 2 & 3, and October 1, 2004, the Board of Zoning Appeals (the Board) convened to hear the request for a bituminous concrete (blacktop) mixing plant and variances from the height requirements of no more than 30 ft. for storage silos and from distance requirements of 600 ft. to about 300 ft. Based on the testimony and evidence presented, the Board made the following findings and conclusion:

The Applicant is proposing to build a bituminous concrete (blacktop) mixing plant on 8.99 acres (+ -) within the South Carroll Gateway Industrial Park. The subject parcel is located on the west side of MD Rte. 97 south of the intersection with Hoods Mill Road. The property has 800 feet of frontage along MD Rte. 97, which has two lanes in that stretch of road. The property is zoned "IG" General Industrial. The purpose of the "IG" zone as set forth in Section 223-123 of our Code is to "provide for manufacturing or processing which may require extensive

transportation, water and/or sewerage facilities, as well as open space, because of the number of employees, the type of manufacturing operation, or any byproducts which might result from the heavier or larger manufacturing plants proposed".

The Applicant operates a paving company and has been purchasing asphalt for its business from other sources and competitors. They require the plant to facilitate the growth of their company. The proposed plant will be a "state of the art" drum mix operation, which will be required by law to meet all federal and state environmental pollution permit requirements. Mass grading, the creation of berms, and extensive landscaping of the site is planned by the Applicant to minimize the plant's visual impact on MD Rte. 97. Residential development in the neighboring area is relatively minimal, and other industrial and commercial uses, including another asphalt plant are located nearby. The proposed plant will require minimal amounts of water for the processing of the asphalt, unlike many other heavy industrial users.

The plant would typically operate from 6:00 a.m. to 4:30 p.m. Monday through Friday, with occasional Saturday operations to accommodate for poor weather. The Applicant estimates that 6 employees will be stationed at the site, including 2 office personnel who will occupy a 5,000 square foot office building. The plant will require a sixty-foot silo with an additional 20 feet at the top to house equipment. A qualified traffic expert, whom the Board found credible, estimated that the proposed plant at 1,500 tons per day would generate 284 daily truck trips and 25 daily employee trips. In addition, the expert testified that the plant would not cause the road system that serves the area to "fail" under SHA requirements. A qualified appraiser whom the Board found credible testified for the Applicant that the proposed use is an appropriate location would not result in a deflation of property values in the area.

The property has some unique features. Specifically, it is bisected by the Colonial gas Pipeline, which limits its capacity for development. The pipeline is legally protected by a 50-foot wide area where building is restricted. In addition, the site is located near the closed Hoods Mill landfill, which creates possible environmental challenges for the site's water supply. The property also abuts a well-traveled portion of MD Rte. 97.

Based on the above findings, the Board finds that an asphalt plant is appropriate in this portion of the "IG" zone, which is reserved for some of the County's heavier industries. In addition, the Board finds that the proposed use here will not generate adverse effects above and beyond those normally associated with such a use. The noise and odors associated by such a plant would be no worse here than elsewhere in the zone. In addition, the truck traffic generated here would not be worse than at other properties in the "IG" zone. It is difficult to imagine any industrial site in the County that is served by ideal roads, and this use will not result in a failure of the road system.

In addition, the site contains such unique features as set forth above that would render many, if not most heavy industrial uses, as not feasible without the grant of the requested variances. An application of the zoning restrictions to this parcel of "IG" zoned land that renders it unable to accommodate heavy industrial users results in practical difficulty and undue hardship. Accordingly, the requested height variance and setback variances are granted, namely a height variance of no more than 30 feet to accommodate a silo and a distance variance from 600 feet to 300 feet from the nearest home site lot as set forth in the Carroll County Public Local Laws and Ordinances Chapter 223-16B.

Date 10/29/04

Jacob M. Yingling, Chairman

*At the request of a Protestant, Case No. 4580 (Application of Rte. 97 Enterprises, LLC) was incorporated by the Board into this case.