

**Tax Map/Block/Parcel  
No. 41-15-54**

**Building Permit/Zoning  
Certificate No. 06-0130**

**Case 5183**

**OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND**

**APPLICANT:** Lawrence E. Julio, or assigns  
216 Schilling Circle, Suite 300  
Hunt Valley, MD 21031

**ATTORNEY:** Clark R. Shaffer

**REQUEST:** Authorization of accessory uses not exceeding 15% of the lot or parcel, namely a bank, a restaurant, a daycare facility, and a retail/commercial facility and variances from the 3,000 sq. ft. requirement for the bank, the restaurant, and if needed, for the retail/commercial facility.

**LOCATION:** The site is located at 626 Hanover Pike, Hampstead, on property zoned "I-R" Restricted Industrial District in Election District 8.

**BASIS:** Code of Public Local Laws and Ordinances, Chapter 223-119 B and 223-186 A (3)

**HEARING HELD:** March 2, May 30, & July 25, 2006

**FINDINGS AND CONCLUSION**

On March 2, May 30, & July 25, 2006, the Board of Zoning Appeals (the Board) convened to hear a request for an authorization of accessory uses not exceeding 15% of the lot or parcel, namely a bank, a restaurant, a daycare facility, and a retail/commercial facility and variances from the 3,000 sq. ft. requirement for the bank, the restaurant, and if needed, for the retail/commercial facility. The Board made the following findings and conclusion:

The Applicant is proposing an industrial and warehousing center with supporting retail uses on the former parking lot of the Black & Decker complex. The entire parcel is 147 acres (+-), but the proposed center will encompass only 12 acres (+-). The property fronts Route 30 and it is zoned IR-Restricted Industrial.

The site will be designed such that the accessory uses (a bank, restaurant, retail strip center and a daycare facility) will be located off Route 30 in the front of the property. To the rear will be 78,300 square feet of warehouse/industrial space. The industrial/warehouse structures will be developed before the accessory uses. The buildings will be attractive with brick veneers and metal parapets. The surrounding area includes other large industrial uses, including Solo Cup and Joseph A. Bank. The site will have access to Route 30 through an existing entrance formerly used by Black & Decker.

**OFFICIAL DECISION**  
**C5183**  
**PAGE TWO**

The Hampstead bypass is anticipated to be completed by November of 2008. It is believed that this will eliminate much traffic from Route 30 and will relieve the current peak hour congestion. A traffic expert presented credible testimony to the Board and he concluded that the intersections supporting the proposed development will function at an acceptable level of service at peak periods once the bypass is completed.

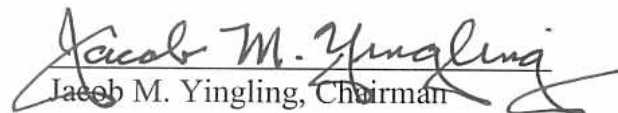
The variance request was necessitated by the typical design of a bank building or restaurant, which require slightly more than 3,000 square feet. Few, if any businesses can operate with 3,000 square feet or less, due to the amount of space needed for the public portion of the establishment as well as storage and other uses.

In this case, the Board considered this request to encompass the 184 acre parcel for purposes of the calculation of the allowable 15% accessory uses. In addition, the Board interprets Section 223-119 (B) as requiring that the square footage of accessory uses "under roof" vs. the square footage of industrial uses "under roof" may not exceed the 15% requirement of this section. Otherwise, the possibility of the "tail wagging the dog" is quite real, and the retail uses could become dominant, rather than accessory. The 15% accessory use limit on the 184 acre parcel should be tracked by the Bureau of Development Review as the parcel is developed. In addition, the plan for this 12 acre development must be phased such that the development of the industrial/warehouse section occurs prior to the retail/accessory section. The Board finds that a strict application of the 3,000 square feet limit found in 223-119 (B) will result in undue hardship and practical difficulty as to the proposed retail buildings. Accordingly, the variances are granted.

Finally, the Board concludes that since the 15% limit on accessory uses is being considered in conjunction with the 184 acre parcel, the 12 acre industrial/retail park approved in this case may not be subdivided. Otherwise, the accessory uses would not be "located on the same lot" and would not meet the definition of "accessory use" set for in Section 223-2 of the Zoning Code.

Date

8/22/06

  
Jacob M. Yingling, Chairman