

IN THE MATTER OF	:	BEFORE THE
15095 FREDERICK,	:	HOWARD COUNTY
ROAD, LLC	:	BOARD OF APPEALS
PETITIONER	:	HEARING EXAMINER
	:	BA Case No. 25-007N

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### DECISION AND ORDER

On July 29, 2025, the undersigned, serving as a Howard County Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of 15095 FREDERICK ROAD, LLC, Petitioner, for modification of a Nonconforming Use for a Nonconforming Trailer Sales and Service and Farm and Light Industrial Equipment Service consisting of several buildings totaling 9,760 square feet of trailer/truck maintenance and storage buildings, located in a B-1 (Business: Local) Zoning District, filed pursuant to Section 129.0.E of the Howard County Zoning Regulations (HCZR).

Petitioner certified to compliance with the notice, posting, and advertising requirements of the Howard County Code. The Hearing Examiner viewed the property as required by the Hearing Examiner Rules of Procedure. Thomas G. Coale, Esquire represented the Petitioner 15095 Frederick Road, LLC. Andrew Bartley (Petitioner) and

Dennis Ream (engineer) testified in support of the Petition. No one appeared in opposition.

### **FINDINGS OF FACT**

Based upon the evidence of record, the Hearing Examiner finds as follows:

1. **Property Identification.** The Subject Property, known as 15095 Frederick Road, is located in a B-1 (Business: Local) Zoning District, on that land belonging to the Petitioner located on the south side of Frederick Road (Md Rt 144), west of its intersection with Bushy Park Road, and east of its intersection with Carrs Mill Road, Woodbine, located in the 5<sup>th</sup> Council District, Tax Map 8, Grid 15, Parcel 58, comprised of approximately 2.0065 acres. The rectangular shaped property consists of a 3,242 square foot repair shop (Bldg. A), a 4,555 square foot trailer sales storefront (Bldg. B), a 690 square foot open pole barn for storage (Bldg. C), a 2,060 square foot open pole barn for storage (Bldg. D), 21 parking spaces, and a gravel yard area. The site rises from an elevation of 586 feet in the northwest corner to 602 feet in the southeast corner.

2. **Vicinal Properties**

Direction	Zoning	Land Use
North	B-1	Undeveloped
South	RC-DEO	Farming
East	RC-DEO	Farming
West	RC-DEO	Residential

3. **Roads.**

At this location, Frederick Road has a prescriptive Right-of-Way with the

Property's boundary extending to the approximate road centerline. Frederick Road has two travel lanes within a 27-foot paved roadway. The speed limit is 45 miles per hour.

According to the State Highway Administration records, the current AADT for Frederick Road is over 4,825 vehicles.

4. Water and Sewer Service.

The Property is outside the Planned Service Area for Water and Sewer and is served by private well and septic. The Petitioner has been in communication with the Bureau of Environmental Health regarding the potential for installation of a new well and new septic system.

5. General Plan.

The Property is designated Rural Conservation on the Designated Place Types Map of the HoCo By Design General Plan. Frederick Road is a Minor Arterial.

6. Prior Zoning History.

Case No.	NCU-15-001
Request:	Confirmation of a nonconforming trailer sales/service and farm/light industrial equipment service facility.
Action:	Approved June 8, 2015
Case No.	BA-19-023N

**Request:** Enlargement of a nonconforming trailer sales/service and farm/light industrial equipment service consisting of a 4,624 square foot trailer/truck maintenance and storage building.

**Action:** Approved June 18, 2020

**Note:** BA-19-023N was determined void pursuant to Section 129.0.E.2 of the Zoning Regulations because the Petitioner did not obtain a building permit conforming to the plans for which the approval was granted within two years.

**Case No.** NCU-15-001, the Director of the Department of Planning and Zoning granted, on June 8, 2015, confirmation of a nonconforming trailer sales/service and farm/light industrial equipment service facility.

## 7. Agency Comments.

The Division of Land Development stated:

A site development plan (SDP) for the trailer storage, sales and repair uses will be required subsequent to the approval of this non-conforming use expansion. Proposed site improvement and features shall be evaluated by DPZ staff and county agencies as part of the SDP submission requirements.

1. This development may be subject to public road improvements such as curb, gutters, drain systems, sidewalks, street lights and street trees, per Subtitle 1, Article III of the County Code.
2. An inventory of the existing environmental conditions of the subject site must be prepared by an environmental professional and findings



provided with the forthcoming SDP. All environmentally sensitive areas regulated by this County must comply with Sections 16.115 –16.117 of the Subdivision and Land Development Regulations.

3. Forest conservation for this development must be satisfied, in accordance with Section 16.1200 of the County Code and the Forest Conservation Manual.
4. Off Street Parking requirement for the use is subject to Section 133.0 of the Zoning Regulations and DPW design standards for access, spacing, and drainage purposes. The Zoning Regulations require 2.0 parking spaces per 1,000 SF of building area excluding service bays, plus 1 space per 1,000 SF of outdoor display area, plus 3 spaces per service bay for vehicle sales, rental and ancillary uses as outlined in Section 133.0.D.4.s of the Zoning Regulations.

Warehouse and distribution require 0.75 spaces per 1,000 SF. The number of parking spaces required and provided will be reviewed upon the submission of the SDP.

5. Perimeter and parking landscaping will be required for this development with the SDP, in accordance with the Landscape Manual.

The Health Department opined:

Health has been working with the hired engineers for this project to bring the well & septic components up to code. Most recently we approved a Perc Certification Plan and were able to utilize perc testing that was conducted in the early 2000s.

The engineer is currently working with us to install a new septic system that will be designed appropriately for all uses. Health records for their current well & septic components are extremely limited. The GPD flow for the current septic use is most likely undersized. Construction proposals for this new structure will force abandonment of all existing well & septic components and we'll be installing a new well & a new septic system. Health has been asking for all current uses, proposed uses, and # of employees to size the new septic system appropriately. We have not approved any OSDS plan, which will be required prior to any building permit release.

The Development Engineering Division stated:

This request is subject to meeting all current design criteria including stormwater management (an ECP shall be required) and a Site Development Plan addressing the improvements including APFO impacts and Complete Streets.

RCD states that while it has no objection to the proposal, please add the Note that this parcel is located adjacent to a Howard County designated Scenic Road.

#### 8. Petitioners Request.

The Petitioner requests the enlargement and alteration of the trailer sales/service and farm/light industrial equipment service uses. In particular, the Petitioner proposes to enlarge the existing nonconforming trailer sales/service and farm/light industrial equipment service facility that was confirmed in NCU-15-001 on June 8, 2015. The confirmed facility consists of a 2,400 square foot repair shop, a 2,475 square foot pole barn used as a trailer garage, a 2,250 square foot pole barn used for trailer storage, a 4,459 square foot trailer store, a 3,200 square foot storage

building, a 550 square foot trailer, 23 parking spaces, and a stone yard area. The Petitioner proposes to demolish the 3,200 square foot storage building, remove the 550 square foot trailer (labeled shipping container on the Nonconforming Use Plan), and construct a new 4,624 square foot trailer/truck maintenance and storage building and add an additional 8 parking spaces which includes 2 handicap parking spaces and access drive, all ADA compliant.

### **CONCLUSIONS OF LAW**

1. Nonconforming use confirmations (§129.0 HCZR) do not have specific criteria, but rather they are based on evaluations of the following items:

1. ***A statement and plans or other illustrations fully describing the magnitude and extent of the nonconforming use.***

The nonconforming use confirmation was previously approved for a trailer sales/service and farm/light industrial equipment service facility for the entire 2.0-acre property under NCU-15-001.

2. ***A statement identifying the date the use became nonconforming to the use provisions of the Zoning Regulations.***



The Property became nonconforming as of the effective date of the initial Zoning Regulations in 1948. This was affirmed by the NCU-15-001 Decision and Order.

3. ***Documentation substantiating the existence of the use on the date it became nonconforming and clearly demonstrating the continued and uninterrupted use or operation thereof from the specified date to the time of filing the application. The burden shall be on the property owner to establish the existence of the nonconforming use.***

The continued and uninterrupted use or operation thereof from the initial date of nonconformance was affirmed by the NCU-15-001 and BA-19-023N Decision and Orders.

2. The Howard County Zoning Regulations, Section 129.0.E (Extension, Enlargement or Alteration of a Nonconforming Use) states:

1. The Hearing Authority may authorize the extension or enlargement of a nonconforming use or the alteration of outdoor use areas or of a structure containing a nonconforming use, with or without conditions, provided:

- a. That any changes or additions to the activities taking place in connection with the nonconforming use will not change the use in any substantial way;
- b. That an enlargement may not exceed 100% of the gross floor area of structures or 100% of the gross acreage in the case of nonconforming land, above that which legally existed at the time the use first became nonconforming;



- c. That the boundaries of a nonconforming use may be enlarged only to provide additional parking area;
- d. That an enlargement would not cause a violation of the bulk regulations for the zoning district in which the property is located;
- e. That the extension, enlargement or structural alteration would not cause an adverse effect on vicinal properties.

**3. Section 129.0.E.1.a. That any changes or additions to the activities taking place regarding the nonconforming use will not change the use in any substantial way.**

The proposed enlargement consists of a 4,970 square foot increase for a storage building and trailer/truck maintenance.

The use will remain a commercial operation including trailer storage, sales and repair operations related; therefore, the proposed enlargement will not change the commercial use in any substantial way.

**4. Section 129.0.E.1.b. That an enlargement may not exceed 100% of the gross floor area of structures or 100% of the gross acreage in the case of nonconforming land, above that which legally existed at the time the use first became nonconforming.**

The gross floor area of the confirmed nonconforming trailer sales/service and farm/light industrial equipment service is 10,547 square feet. The Petitioner proposes to increase the gross floor area by 4,970 square feet, which is an increase of approximately 47.1% ( $4,970\text{sqft}/10,547\text{sqft} * 100$ ). Thus, this criterion is fulfilled.

**5. Section 129.0.E.1.c. That the boundaries of a nonconforming use may be enlarged only to provide additional parking area.**

The entire Property was confirmed as a nonconforming trailer sales/service and farm/light industrial equipment service through NCU-15-001 on June 8, 2015. The Petitioner is not requesting an enlargement of the boundaries; therefore, this criterion does not apply.

**6. Section 129.0.E.1.d. That an enlargement would not cause a violation of the bulk regulations for the zoning district in which the property is located.**

The Property is zoned B-1 and the setback from a residential zoning district is 30 feet. The proposed building is 77 feet from the side lot line and 30 feet from the rear lot line. The allowed height in B-1 is 40 feet or 48 feet for a pitched roof. The highest point on the proposed building is 26 feet. The expansion does not violate the bulk regulations of the B- 1 zoning district.

**7. Section 129.0.E.1.e. That the extension, enlargement or structural alteration would not cause an adverse effect on vicinal properties.**

The existing 3,200 square foot building and the 550 square foot trailer/shipping container encroach into the side and rear setbacks. The Petitioner proposes to remove these two structures and construct a new building in the southeast corner that complies with the 30-foot setback. The properties to the east and south consist of a 16.09-acre farm and a 15.97-acre tree farm, respectively. A

dense vegetative buffer screens the Property from the tree farm to the south, but no buffer exists along the east property line. A Type "C" buffer will be required along the east property line during Site Development Plan review.

The 5-acre property to the west contains a single-family dwelling that is approximately 600 feet from the proposed building and is screened by a dense landscape buffer. The properties to the north consist of a vacant B-1 zoned property and single-family residences. The closest residence is approximately 500 feet from the proposed building and is screened by the existing trailer store building.

Therefore, the enlargement is unlikely to have adverse effect on vicinal properties.



**ORDER**

Based upon the foregoing, it is this **30<sup>th</sup>** day of **July 2025**, by the Howard County Hearing Examiner, **ORDERED:**

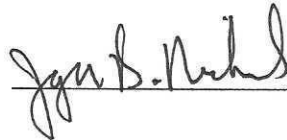
That the Petition of **15095 FREDERICK ROAD, LLC**, for the modification of a Nonconforming Use for a Nonconforming Trailer Sale and Service and Farm and Light Industrial Equipment Service to demolish the 3,200 square foot storage building, remove the 550 square foot trailer (labeled shipping container on the Nonconforming Use Plan), and construct a new 4,624 square foot trailer/truck maintenance and storage building, located in the 5<sup>th</sup> Council District, Tax Map 8, Grid 15, Parcel 58, comprised of approximately 2.0065 acres of land, identified as 15095 Frederick Road, Woodbine, located in a B-1 (Business: Local) Zoning District, filed pursuant to Section 129.0.E of the Howard County Zoning Regulations (the "Zoning Regulations"), be and is hereby **GRANTED;**

Provided, however, that the Nonconforming Use will apply only to the uses and structures as described in the Petition and Revised NCU Plan submitted and not to any other activities, uses, structures, or additions on the Property, and **Subject** to the

following **Condition:**

1. Add a Note to the July 11, 2025 Revised NCU Plan that this parcel is located adjacent to a Howard County designated Scenic Road.

**HOWARD COUNTY  
HEARING EXAMINER**

A handwritten signature in black ink, appearing to read "Joyce B. Nichols", is written over a horizontal line.

**JOYCE B. NICHOLS**

**NOTICE:** A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.