

IN THE MATTER OF \* BEFORE THE CECIL COUNTY  
 THE APPLICATION OF \* BOARD OF APPEALS  
 YORK BUILDING PRODUCTS CO. INC. \* CASE NO.: 3880  
 \*  
 (Variance) \*  
 \* \* \* \* \* \* \* \* \* \* \*

**OPINION**

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of York Building Products Co., Inc. (the “Applicant”). Applicant seeks a variance from the 100 foot buffer requirement of Article-V, Part II, Section 67.1.A and 67.1.B at property owned by Applicant located at Principio Road, Port Deposit, Maryland 21904, designated as Parcel 538, on Tax Map 29, in the Fifth Election District of Cecil County (the “Property”).

Under the provisions of Article XVII, Part I, Section 306, Paragraph 1, variances, as defined in Article II, may be granted by the Board of Appeals. Paragraph 2 of Section 306 requires the Board to examine all facts of the case and render a decision based upon the following criteria:

A. The variance requested is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance.

B. Special conditions and circumstances exist that are peculiar to the land, buildings, or structures involved, and that are not applicable to other lands, buildings, or structures in the same zone, such conditions and circumstances not being the result of actions by the applicant.

C. The granting of the variance will not confer upon the applicant any special privileges that are denied by this Ordinance to other properties in the same zone.

D. The variance request does not arise from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

Mike Pugh and Jim Gawthrop appeared on behalf of Applicant and testified in favor of the Application. Applicant that it owns two parcels, both of which are subject to the mineral extraction overlay. The mineral deposit that Applicant seeks to mine lays at or near the property line between the two parcels owned by Applicant. Applicant cannot extract the mineral deposit in the location without a variance.

No one appeared in opposition to or in favor of the application.

From the evidence presented the Board is satisfied that the criteria set forth in Section 306 has been met, and makes the following findings:

1. The variance request is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance. Being in the MEB overlay zone, the Applicant is permitted to engage in mining activity on the Property subject to the granting of a special exception; however, mining is necessarily limited to areas where sand and gravel deposits exist. Due to the location of the deposits and the placement of the property line, a literal enforcement of the Ordinance would deprive Applicant of a right commonly enjoyed by other parties in the same zone under the Ordinance.


2. Special conditions and circumstances exist that are peculiar to the subject land, buildings or structures involved and that are not applicable to other lands, buildings, or structures in the same zone. Due to the position of the mineral deposits on the parcel and the location of the boundary line, excavation activity cannot be undertaken without the requested bufferyard variance.

3. The granting of the variance will not confer upon the applicant special privileges that are denied by this Ordinance to other properties in the same zone. Other owners of parcels of equal size to the Property located within the MEB overlay zone are able to engage in mining activity as a matter of right.

4. There is no evidence that the variance request arises from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

For the reasons stated, by unanimous vote, the Board is satisfied that the criteria set forth in Section 306 have been met, and the application is therefore **GRANTED**.

8/28/18  
Date

  
Mark Saunders, Chairperson

**BOARD OF APPEALS APPLICATION**

MONTH: July  
CECIL COUNTY, MARYLAND  
NO. \_\_\_\_\_

MEET.

FILE

THIS REQUEST IS FOR:  
SPECIAL EXCEPTION RENEWAL ( )  
FILED: \_\_\_\_\_  
SPECIAL EXCEPTION (X)  
PD: \_\_\_\_\_  
VARIANCE (X)  
BY: \_\_\_\_\_  
APPEAL ( )

DATE

AMOUNT

ACCEPTED

**A. APPLICANT INFORMATION**

York Building Products Co., Inc.  
APPLICANT NAME – PLEASE PRINT CLEARLY

950 Smile Way York PA 17404  
ADDRESS CITY STATE ZIP CODE

APPLICANT SIGNATURE 443-907-2406  
PHONE NUMBER

**B. PROPERTY OWNER INFORMATION**

York Building Products Co., Inc.  
PROPERTY OWNER NAME – PLEASE PRINT CLEARLY

950 Smile Way York PA 17404  
ADDRESS CITY STATE ZIP CODE

PROPERTY OWNER SIGNATURE 443-907-2406  
NUMBER PHONE

**C. PROPERTY INFORMATION**

E/S Principio Road 7 004281  
PROPERTY ADDRESS ELECTION DIST. ACCT.  
NUMBER

29 5 538 42.72  
RR-MEB TAX MAP # BLOCK PARCEL LOT # #ACRES  
ZONE

**D. PURPOSE OF APPLICATION** – Indicate reasons why this application should be granted.  
(attach separate sheet if necessary)

Removal of sand and gravel and variance of buffer along internal property line with Parcel 7

**E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.**

**F. LAND USE DESIGNATION**

Is property in the Critical Area? \_\_\_\_\_ YES X

NO

If yes, Pertinent provision of the Chesapeake Bay Critical Area Program:

Is property in the 100 year Floodplain? \_\_\_\_\_ YES X

NO

Is property an Agricultural Preservation District? \_\_\_\_\_ YES X

NO

**If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.**

**G. PROVISION OF ZONING ORDINANCE: Sec 67.2 and 67.2.b**

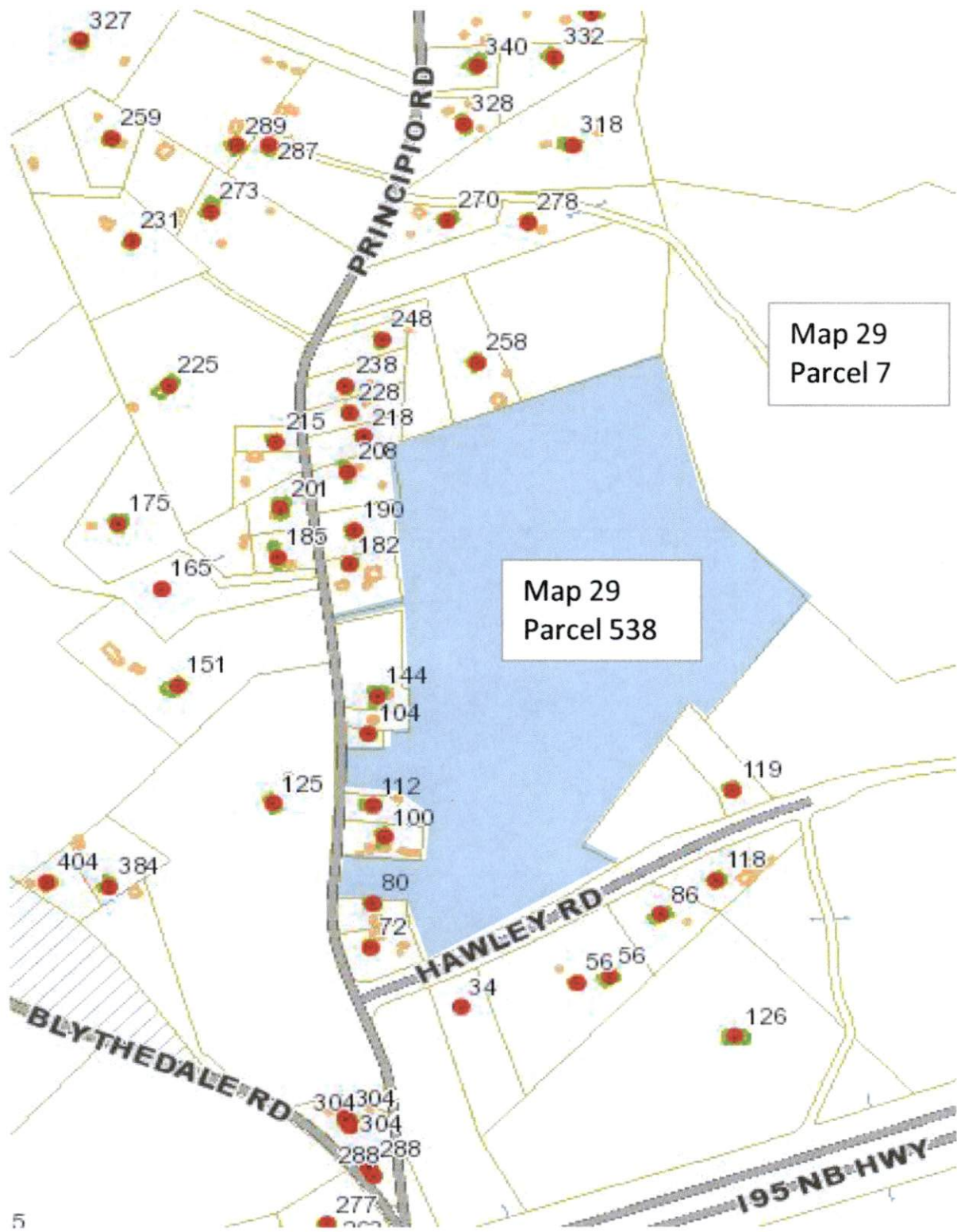
**H. SPECIAL EXCEPTION RENEWAL** – PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL:

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**I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME** – Please fill out the following information:

Will unit be visible from the road? \_\_\_\_\_ If yes, distance: \_\_\_\_\_  
Will unit be visible from adjoining properties? \_\_\_\_\_ If yes, distance: \_\_\_\_\_  
Distance to nearest manufactured home: \_\_\_\_\_ Size/Model/Year of  
Unit: \_\_\_\_\_  
Number of units on property at present time: \_\_\_\_\_

Revised 10-05-gd



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Application for Special Exception  
 York Building Products Co., Inc.  
 950 Smile Way, York, PA 17404





**LEGEND**

-  100' MINING BUFFER FROM PROPERTY LINE
-  300' MINING BUFFER FROM RESIDENTIAL STRUCTURES
-  COMBINED MINING BUFFER AREA
-  BUFFER AREA - SUBJECT OF THE VARIANCE REQUEST
-  APPROX. PROPERTY LINE
-  EXISTING CONTOUR INDEX



**STORMWATER  
MAINTENANCE & CONSULTING**

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**PARCEL 0538 ZONING  
BUFFER EXHIBIT**

Designed By: TGG	Scale: 1" = 300'	Project No.: 28031
Drawn By: TGG	Date: 05 22 2018	Sheet: 1 OF 1
Checked By: ELF	Approved:	