

**Tax Map/Block/Parcel
No. 41-15-278**

**Building Permit/Zoning
Certificate No. 00-2254**

Case 4524

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

APPLICANT: Cowan Systems, LLC
1910 Halethorpe Farm Road
Baltimore, Maryland 21227

ATTORNEY: Reid V. Eikner

REQUEST: A conditional use request to install one 12,000 gallon double wall above ground storage tank (UL#2085) for diesel fuel to be used as a fueling facility by Cowan Trucking and a request for a variance from the required 600 feet to 225 feet to the adjoining residential district.

LOCATION: The site is located on Sweetheart Cup property, 630 Hanover Pike, Hampstead, MD 21074, on property zoned "I-R" Restricted Industrial District in Election District 8.

BASIS: Article 12, Section 12.2(a), Article 4, Section 4.12(a); Zoning Ordinance 1E

HEARING HELD: November 29, 2000

FINDINGS AND CONCLUSION

On November 29, 2000, the Board of Zoning Appeals (the Board) convened to hear the application for a conditional use request to install one 12,000 gallon double wall above ground storage tank (UL#2085) for diesel fuel to be used as a fueling facility by Cowan Systems LLC (the Applicant) and a request for a variance from the required 600 feet to 225 feet to the adjoining residential district.

The Applicant is the dedicated motor carrier for the Sweetheart Cup Company, which currently operates a large warehouse at 630 Hanover Pike. The Applicant uses approximately 40 tractors and 100 trailers, which carry between 25 and 35 loads per day of outbound finished goods and inbound raw materials. The Applicant wishes to erect and operate the fueling facility to support its fleet. Fueling is to occur for 5 to 8 tractors each day. The property is zoned "I-R" Restricted Industrial.

The proposed tank is a 12,000-gallon vessel approximately 96 inches in diameter and approximately 30 to 35 feet in length. The tank will be set on a concrete slab and will have an access ladder for servicing. A maximum 1,600 gallons of fuel would be pumped per day, resulting in an inbound load of fuel or less per week. The tank will meet all federal and state public safety regulations.

The proposed location of the tank is on the south side of the massive Sweetheart Cup property that abuts Houcksville Road and several residences, which are served by wells. The Applicant claims that the proposed spot is the only feasible location on the property, because the south side of the parcel contains loading docks, trailers and parking areas. The west side of the property is undesirable due to the topography and wetlands.

A conditional use must be granted unless the adverse effects in a particular location would be greater than the adverse effects ordinarily associated with such a use. The Board finds that the tank at the proposed location is perilously close to the residences along Houcksville Road, and the noise, public safety concerns, and lights generated at this location would be greater here than elsewhere in the zone. The Board notes that the Sweetheart Cup facility is gargantuan and we are not convinced that the Applicant has sufficiently considered alternative locations on the site or in the immediate area.

A variance may be granted only when a landowner meets the heavy burden of proving unwarranted hardship. In the instant case, the Board notes that the drafters of our Zoning Ordinance took great care to triple the setback requirement of Section 4.12 in situations where a large fuel tank is proposed near a home. The Board finds that any hardship in this matter was created by the Applicant in selecting the proposed site on the massive Sweetheart Cup property, and a deviation from the setback requirements is unwarranted and unsupported. The Applicant's desire to make additional profits is a legitimate motive, but is an insufficient hardship to justify the granting of a variance.

Accordingly, the Applicant's requests for a conditional use and variance are denied.

12/22/00

Date

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Karl V. Reichlin

Karl V. Reichlin, Chairman