

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY MARYLAND

APPLICANT: Robert Clifford Logue  
4928 Ridge Road  
Mount Airy, Maryland 21771

ATTORNEY: Stephen M. Harris, Esquire  
Post Office Box 380  
Mount Airy, Maryland 21771

REQUEST: A request to amend the conditions imposed by the Board's authorization in Case 1590 of the farm welding shop and a variance for the minimum distance requirements pertaining thereto.

LOCATION: 4125 Franklinville Road in Election District 9.

BASES: Article 17, Section 17.2; Zoning Ordinance 1E.

HEARING HELD: October 30, 1987

FINDINGS

The record of this case is hereby included by reference in this decision. The pertinent findings include the following facts:

On June 3, 1980 in Case 1590 Mr. Logue came before the Board of Zoning Appeals requesting a conditional use of this property to establish a farm welding shop, specializing in the repair of farm machinery and equipment; and, a variance for reduction of the minimum distance requirements of 400 feet (2 X 200 feet = 400 feet) pertaining to the shop as specified in Article 6, Section 6.3(e) of the zoning ordinance. Testimony and evidence was presented in behalf of, and in opposition to, the requests. The Board issued its written decision on October 3, 1980 imposing twelve conditions of authorization to "...promote the intent and purpose of Zoning Ordinance 1E." As stated in Article 1 of the ordinance, the purpose is:

"...to promote the health, safety, morals, and the general welfare of the community, by regulating and restricting the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the density of population, the size of lots, yards, courts,

and other open spaces, and the location and use of buildings, structures, and land for trade, industry, residence, and other purposes; to provide for adequate light and air; to prevent congestion and undue crowding of land; to secure safety from fire, panic, and other danger; and to conserve the value of property."

Mr. Logue proceeded to establish the farm welding shop, but did not comply with the conditions of authorization. In addition, Mr. Logue displayed and apparently sold agricultural machinery, equipment, and parts not authorized as part of the original conditional use request, and added a business identification sign, 3 feet by 12 feet, painted on the southerly side of the building. As noted on page 3 of the Board's decision, no identification sign would be required, and accordingly, the Board did not authorize an identification sign as stated in condition 12 of the decision. Although the primary business was recognized and identified as a farm welding shop, part of the operation involved assembly, including welding, of farm truck bodies and their subsequent sale. In considering the factors, the Board found that the sale of farm truck bodies would be an incidental, or accessory use to the farm welding shop. However, Mr. Logue has introduced farm machinery, equipment, and parts manufactured elsewhere for sale from the premises. As welding would not normally be involved in the preparation of such products for sale, the business would be classified as a farm machinery sales and service shop, specifically intended for the sale, maintenance and repair of farm machinery. Farm machinery sales and service is listed as a specific conditional use, even though grouped with other uses considered similar in paragraph (e) of Section 6.3 of the ordinance.

Other than the unauthorized expansion of the business by adding the sale of agricultural machinery, etc., as noted above, the affect of the requested amendments of the conditions imposed by the Board is to enlarge the exterior storage and work area by altering the location of the fence enclosing the area, change the landscaping plan, and allow the business identification sign painted on the south side of the building. The proposed amendments are to conditions 5, 6, 8, 9, 11, and 12. The proposed amendment of condition 7 pertaining to parking was not pursued.

CONCLUSION

After weighing the testimony and evidence comprising the record of this case, the Board concludes that the following amendments of the conditions of authorization will not substantially alter the original authorization, unduly affect the adjoining properties, nor be contrary to the intent and purpose of the zoning ordinance.

Conditions 1, 2, 3, 4, 7, and 9 continue in effect as originally imposed. They read:

1. The proposed driveway connection to Franklinville Road shall be subject to the approval of the Bureau of Engineering Access Permits of the State Highway Administration and the Carroll County Department of Permits and Inspections.
2. Establishment of the farm welding shop shall be subject to the requirements of the Carroll County Health Department.
3. All exterior lighting of the building, and storage-work yard shall be shaded or shielded so that the light source can only be seen from directly below the light or lights.
4. Establishment of the proposed building shall be in accordance with the applicant's testimony and evidence presented during the public hearing.
7. Five parking spaces shall be established in front of the proposed building with three (3) spaces for customer use and two (2) spaces for employee use. If additional employee parking becomes necessary, it shall be provided within the building, or storage-work yard.
9. All storage and work done on the premises shall be within either the building or the storage-work yard.

Conditions 5, 6, 8, 10, 11, and 12 are hereby amended to read as follows:

5. A chain link fence, at least 6 feet in height, shall be erected in the location shown on the site plan identified as Applicant's Exhibit 1. Screening inserts shall be placed in all sections of the fence to obstruct vision of the storage and work area. The fence and inserts shall be maintained in good repair so long as the farm welding shop is operated on the premises.
6. In addition to the artificial screening inserts in all sections of the fence, two rows, offset five feet, of white pine trees, five feet to six feet in height, shall be planted ten feet on centers along the entire perimeter of the fence, except for the vehicular access gates. The glossy abelia (abelia grandiflora) shown on the site plan adjacent to the fence and building fronting on Franklinville Road shall be located further from the fence to provide space for the white pines required above.
8. The additional landscaping shown on the site plan, Applicant's Exhibit 1, consisting of pin oak trees at least eight feet to ten feet in height, randomly located between the front of the building and Franklinville Road shall be planted as generally shown on the site plan.
10. The applicant is directed to submit a corrected detailed site development plan accurately reflecting the amended conditions of this decision, and the conditions remaining in effect from Case 1590 to the Zoning Administrator, and the Board of Zoning Appeals for the filing with the record of this case, showing but not limited to:
  - a. the shape and dimensions of the property,
  - b. the location and dimensions of the building, fencing, parking spaces, driveways, and specific landscaping plans for the building and parking spaces, including the location and common names of the shrubs and trees.

11. Submission of the corrected site plan to the Zoning Administrator and Board of Zoning Appeals, erection of the fence, installation of the screening inserts, and all landscaping (planting of trees) shall be accomplished not later than June 1, 1988. Any trees that become diseased or die shall be replaced.
  
12. The three feet by twelve feet business identification sign painted on the south side of the building is hereby authorized. No additional signs are authorized in conjunction with operation of the farm welding shop.

Establishment of a farm machinery sales and service shop for sale and service of farm machinery, including equipment and parts is a separate conditional use, and is subject to authorization by this Board following proper application and duly advertised public hearing. Continuation of such sales and service without authorization of this Board is a violation of the zoning ordinance. If Mr. Logue wishes to pursue sales and service of farm machinery, he may file with the Zoning Administrator an Application for Hearing including an amended site plan, requesting the conditional use.

The applicant is directed to notify the Zoning Administrator immediately upon compliance with the conditions of authorization.

Dec. 31, 1987  
Date

John Totura  
John Totura, Chairman