

Tax Map/Block/Parcel  
No. 40-21-468

Building Permit/Zoning  
Certificate No. 92-2996

Case 3805

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

**APPLICANT:** Craig L. Simpson  
1000-2A Scarlet Oak Court  
Hampstead, Maryland 21074

**REQUEST:** A conditional use for parking facilities for commercial vehicles

**LOCATION:** 2433 Coon Club Road in Election District 8; Arbuthnot Estates subdivision, Section 2, lot 9 recorded in Carroll County Plat Records in book 35, pages 43 and 44

**BASIS:** Article 6, Sections 6.3(x) and 6.7; Ordinance 1E (The Carroll County Zoning Ordinance)

**HEARING HELD:** October 27, 1992

On October 27, 1992, the Board of Zoning Appeals heard testimony and received evidence concerning a conditional use for parking facilities for commercial vehicles at 2433 Coon Club Road, which is also known as Arbuthnot Estates subdivision, Section 2, lot 9.

The Board visited the site October 19, 1992.

The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. Based on the record, the Board authorized the conditional use.

For purposes of information, the applicant's attention is directed to the provisions of Article 4, Section 4.26 of the zoning ordinance regarding site development plans and to the Carroll County Landscape Manual.

The pertinent findings determining the Board's decision include the following facts:

**FINDINGS OF FACT**

The improvements on the 5.732 acre lot were originally established prior to the adoption of the zoning ordinance in 1965 and when the property was being farmed. A large barn and three smaller sheds will provide shelter for commercial vehicles and equipment to be parked on the premises. The vehicles and equipment are used in the applicant's lawn maintenance business. During the late fall, winter, and early spring, some of the vehicles and equipment may be used to perform landscaping, remove snow, and remove fallen trees. The buildings and

adjoining areas where vehicles may be parked are not readily visible from adjacent properties because of topography and trees. Equipment used in the business consists of four vehicles, one of which is Mr. Simpson's personal pickup truck; four trailers, two of which are used occasionally; three tractors; and, six mowers. Another pickup truck may be purchased as either a replacement or as additional equipment. The number of employees varies with the seasons. In the past, the maximum number of employees has been eleven. No more than six employees, driving personal vehicles, will report to the premises. Other employees may be picked up elsewhere.

Vehicular access to the site is provided by a paved driveway 12 feet in width connecting to Coon Club Road. The width of the driveway at the entrance will be increased to 20 feet to provide for two-way traffic, and a suitable pullover will be established as indicated on Applicant's Exhibit 5 to further accommodate two-way traffic.

#### APPLICABLE LAW

Articles and Sections cited below are of Ordinance 1E.

The lot and adjoining properties are zoned "A" Agricultural District as depicted on zoning map 40A. The land use provisions for the district are expressed in Article 6. Single and two-family dwellings are allowed as principal permitted uses, and land may be subdivided for residential development, subject to compliance with applicable regulations. Conditional uses, requiring Board authorization, allowed in the district are listed in Section 6.3. Paragraph (x) of Section 6.3 reads:

Parking facilities for commercial vehicles, not to include truck or motor freight terminals, provided the Board shall have the authority to limit the number of vehicles based on the considerations enumerated in Section 17.6 and provided the Board determines sufficient space is available to park the vehicles without disturbance to neighboring properties. Notwithstanding the area requirements of Section 6.7, the Board may consider applications on sites of less than three acres. (Added 12/11/79)

Section 17.6 cited above has been amended and should be read as Section 17.7.

Article 20, Section 20.09 defines conditional uses as:

Uses which are specified for Board of Appeals approval prior to authorization and which uses, after public hearing, may be approved conditionally or disapproved in accordance with Section 17.2. The term "conditional use" shall constitute the same meaning as "special exception" specified as one of the general powers of the Board of Appeals in accordance with Article 66B of the Annotated Code of Maryland.

In considering conditional use requests, the Board is governed by the provisions of Article 17, Section 17.7.

In addition to the provisions of Section 17.7, the Board is governed by decisions of the courts. In Schultz v. Pritts, 291 Md. 1, 20-21, (1981) the decision reads:

Generally, when a use district is established, the zoning regulations prescribe that certain uses are permitted as of right (permitted use), while other uses are permitted only under certain conditions (conditional or special exception use). In determining which uses should be designated as permitted or conditional in a given use district, a legislative body considers the variety of possible uses available, examines the impact of the uses upon the various purposes of the zoning ordinance, determines which uses are compatible with each other and can share reciprocal benefits, and decides which uses will provide for coordinated, adjusted, and harmonious development of the district. (Footnote omitted.) (Citations omitted.)

Because the legislative body, in reaching its determination, is engaged in a balancing process, certain uses may be designated as permitted although they may not foster all of the purposes of the zoning regulations and, indeed, may have an adverse effect with respect to some of these purposes. Thus, when the legislative body determines that the beneficial purposes that certain uses serve outweigh their possible adverse effect, such uses are designated as permitted uses and may be developed even though a particular permitted use at the particular location proposed would have an adverse effect above and beyond that ordinarily associated with such uses. For example, churches and schools generally are designated as permitted uses. Such uses may be developed, although at the particular location proposed they may have an adverse effect on a factor such as traffic, because the moral and educational purposes served are deemed to outweigh this particular adverse effect.

When the legislative body determines that other uses are compatible with the permitted uses in a use district, but that the beneficial purposes such other uses serve do not outweigh their possible adverse effect, such uses are designated as conditional or special exception uses. (Citations omitted.)

On Page 22, the court wrote:

We now hold that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. (Citations omitted.)

**REASONING**

As indicated during the hearing, the agricultural characteristics of the former farm will be maintained and the appearance of the buildings will be improved. Although the Board notes concerns and fears expressed by adjacent property owners regarding authorization for parking of the commercial vehicles on the site, the Board finds no probative evidence of any undue effects to the residents of adjacent properties, the values of those properties, or the public interests.

In considering the testimony and evidence comprising the record of the case, the Board is convinced that Mr. Simpson has met his burden of proof and that the conditional use will be a reasonable and appropriate use of the premises, and is consistent with the provisions of the zoning ordinance.

**CONCLUSION**

In accordance with the Findings of Fact, Applicable Law, and Reasoning expressed above, the Board authorized the conditional use.

November 6, 1992  
Date

William Law/pc  
William Law, Chairman