

Tax Map/Block/Parcel
No. 35-2&3-10

Building Permit/Zoning
Certificate No. 03-0508

Case 4894

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

APPELLANT: Charles Upton Mehring
1060 FSK Highway
Keymar, Maryland 21757

ATTORNEY: Elwood E. Swam

REQUEST: An appeal of a Notice of Violation from the Zoning Administrator, dated November 10, 2003, regarding business operations on subject property and expansion and change of non-conforming use.

LOCATION: The site is located on Bruceville Road, near the E/S of FSK Highway, Keymar, MD 21757, on property zoned "A" Agricultural District in Election District 10.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-9 A (1), 223-9 H, 223-186 A (1) (2) and 223-191

HEARING HELD: January 27, 2004; Continued to February 26, 2004

FINDINGS AND CONCLUSION

On January 27 and February 26, 2004, the Board of Zoning Appeals (the Board) convened to hear the appeal of a Notice of Violation from the Zoning Administrator, dated November 10, 2003, regarding business operations on subject property and expansion and change of non-conforming use. Based on the testimony and evidence presented, the Board made the following findings and conclusion:

The subject property is located on 14 acres (+) in the Agricultural zone. The surrounding area is predominantly agricultural and is served by rural roads. The property was home to a fertilizer facility from the late 1800's to some time in 2002. A large brick building and other structures were built on the property to house and support the fertilizer operation. Since the fertilizer operation predated the adoption of zoning regulations in Carroll County, it was therefore classified as a non-conforming use in the Agricultural zone.

In May 2002, the Applicant/Appellant and a tenant (IMRM) met with various personnel of the County to discuss a potential operation at the site where topsoil would be generated by composting sludge and mixing it with foundry sand and similar aggregate materials. Sometime after this meeting, IMRM opened a foundry sand recycling operation at the site. Spent foundry sand is transported to the site from iron and steel factories in Pennsylvania. IMRM employees remove visible impurities after an inspection. Next, ferrous metals are removed by a magnetic separator, and these materials are stockpiled for transfer to a metals recycler. The clean foundry sand is then sent to a local cement company where it is used in the manufacture of cement. IMRM has an agreement with the cement company to provide 50,000 tons of foundry sand. It is estimated that this number will increase to 100,000 to 200,000 tons in the future. Also, aggregate stone is produced at the facility and sold as construction materials (i.e. crusher

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run, etc.). Two piles of aggregate materials to support the new operation are stored outdoors on the site.

In addition to the foundry sand recycling operation, the Applicant/Appellant has explored and/or is testing a process for blending materials to create topsoil and ice melting materials.

The Board finds that, based on the above evidence, and our visit to the site on January 21, 2004, the fertilizer factory has in fact been transformed into a material recovery facility. Foundry sand is being recycled and cleaned for use in a cement plant. This is not permitted in the Agricultural zone. Therefore, the issuance of the Notice of Violation was appropriate.

In addition, the Board finds that the foundry sand recycling operation and the ice melt/top soil blending operation constitute a change in use of the nonconforming fertilizer factory. The Carroll County Code of Public Local Laws and Ordinances, Chapter 223-9 allows us to approve changes in nonconforming uses to "more appropriate use(s)". We find that the foundry sand recycling operation is unsuited for this location. What was largely an indoor fertilizer operation has been changed into a heavy industry with outdoor storage of tons of materials and equipment. The meeting of May 2002 did not constitute any sort of county approval for the current use. The foundry sand operation is disruptive to the peace and stability of this agricultural area. The ice melting/top soil operations on the site are also not appropriate. They are totally unrelated to the fertilizer operation and constitute industrial uses. Accordingly, the request for a change in the nonconforming use is denied. In addition, the outdoor storage of foundry sand and aggregate for topsoil must cease within six (6) months of the date of the decision.

March 17, 2004
Date

David H. Roush
David H. Roush, Vice-Chairman