

Tax Map/Block/Parcel
No. 67-18-101,411 & 438

Building Permit/Zoning
Certificate No. 06-2408

Case 5251

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

APPELLANT: Charles L. Bopst
239 W. Old Liberty Road
Sykesville, MD 21784

ATTORNEY: David K. Bowersox

REQUEST: An appeal of the Zoning Administrator's determination concerning the parking of commercial vehicles and, alternatively, a request for clarification or modification of the Board of Zoning Appeals Decision (Case 5137, July 19, 2006) concerning an additional vehicle.

LOCATION: The site is located at 239 W. Old Liberty Road, Sykesville, on property zoned "A" Agricultural District in Election District 14.

BASIS: Code of Public Local Laws and Ordinances, Section 223-186 A (1)

HEARING HELD: September 27, 2006

FINDINGS AND CONCLUSION

On September 27, 2006, the Board of Zoning Appeals (the Board) convened to hear an appeal of the Zoning Administrator's determination concerning the parking of commercial vehicles and, alternatively, a request for clarification or modification of the Board of Zoning Appeals Decision (Case 5137, July 19, 2006) concerning an additional vehicle. The Board made the following findings and conclusion:

On July 7, 2006, the Zoning Administrator issued a determination that the Appellant was not entitled to store an additional dump truck on his property absent Board approval or a modification to the Board's decision of February 22, 2006 in Case No. 5137. The Board, in Case No. 5137, limited the Appellant to a total of 3 dump trucks to be stored in a designated area. However, the appeal was not submitted until August 8, 2006. Under Chapter 223-188-B, such appeals must be received within thirty (30) days from the date of the action being appealed. Accordingly, the appeal from the Zoning Administrator's determination in this matter is untimely and is therefore dismissed.

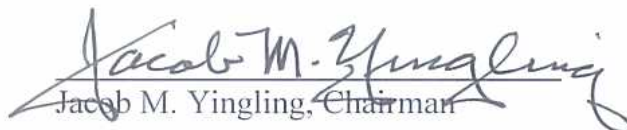
Turning to the Appellant's alternative request, the question can be framed as follows: "Does the grant of a conditional use divest a landowner of an accessory use?". The Board in Case No. 5137 allowed the Applicant to store 3 dump trucks connected to his trucking company. He wishes to store an additional dump truck on the property. He claims the truck is

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historic and for personal use only. In addition, he claims the historic designation of the truck by the Motor Vehicle Administration restricts the truck from being used in connection with his trucking business. Under Carroll County Code of Public Local Laws and Ordinances §223-30.3 (B), the Applicant is entitled by right to park two commercial vehicles that are actually being used by a resident on the property as an accessory use. In Case No. 5137, it was not the Board's intention to abrogate the Appellant's right to store an additional two personal trucks on the property which are unconnected to the business. The Board was attempting to restrict the activities of the business. Accordingly, the Appellant is entitled under Carroll County Code of Public Local Laws and Ordinances §223-30.3 to store up to two additional commercial vehicles (in addition to the 3 approved in Case No. 5137) on his property as accessory uses so long as they are not connected to his trucking business.

10/23/06

Date


Jacob M. Yingling, Chairman

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No. 67-18-101,411 & 438

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Case 5251R

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Charles L. Bopst
239 West Old Liberty Road
Sykesville, MD 21784

ATTORNEY: David K. Bowersox

REQUEST: An appeal of the Zoning Administrator's determination concerning the parking of commercial vehicles and, alternatively, a request for clarification or modification of the Board of Zoning Appeals Decision (Case 5237, July 19, 2006) concerning an additional vehicle. **REMANDED BY CIRCUIT COURT**

LOCATION: The site is located at 239 West Old Liberty Road, Sykesville, on property zoned "A" Agricultural District in Election District 14.

BASIS: Code of Public Local Laws and Ordinances, Section 223-186 A (1)

HEARING HELD: September 27, 2006
Remand: August 29, & October 24, 2007

AMENDED FINDINGS AND CONCLUSION

On August 29 & October 24, 2007, the Board of Zoning Appeals (the Board) convened to hear a Court ordered remand of the Board's decision concerning an appeal of the Zoning Administrator's determination regarding the parking of commercial vehicles and, a request for clarification or modification of the Board of Zoning Appeals Decision (Case 5237, July 19, 2006) concerning an additional vehicle. The Honorable J. Barry Hughes remanded the matter after finding in Civil Case No. 06-C-06-046792 that there was a substantial inconsistency between the Board's oral vote and the written decision in Case No. 5251. The Court remanded the case to the Board for further deliberations, another vote and the entry of a written decision consistent with such vote. In response, the Board issued the following Amended Findings and Conclusion, which supersedes and replaces the Board's decision dated October 23, 2006.

On July 7, 2006, the Zoning Administrator issued a determination that the Appellant was not entitled to store an additional dump truck on his property absent Board approval or a modification to the Board's decision of February 22, 2006 in Case No. 5137. The Board, in Case No. 5137, limited the Appellant to a total of 3 dump trucks to be stored in a designated area. However, the appeal was not submitted until August 8, 2006. Under Chapter 223-188 B,

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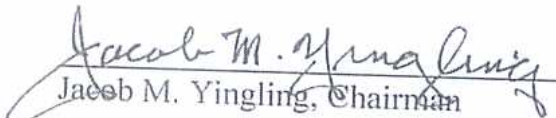
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such appeals must be received within thirty (30) days from the date of the action being appealed. Accordingly, the appeal from the Zoning Administrator's determination in this matter is untimely and is therefore dismissed.

Turning to the Appellant's alternative request, the question can be framed as follows: "Does the grant of a conditional use divest a landowner of an accessory use?". The Board in Case No. 5137 allowed the Applicant to store 3 dump trucks connected to his trucking company. He wishes to store an additional dump truck that he owns on the property. Under the Carroll County Code of Public Local Laws and Ordinances §223-30.3 (B), the Applicant is entitled by right to park two commercial vehicles that are actually being used by a resident on the property as an accessory use. The Board found as a matter of law that the conditional use in the prior case did not divest the landowner of his rightful accessory uses. Accordingly, the Board concluded that the Appellant is entitled under Carroll County Code of Public Local Laws and Ordinances §223-30.3 to store up to two additional commercial vehicles (in addition to the 3 approved in Case No. 5137) on his property as accessory uses.

11/14/07
Date


Jacob M. Yingling, Chairman