

Tax Map/Block/Parcel
No. 61-10-2
Case 5656

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Tim Wright
2810 Sam's Creek Road
New Windsor, Maryland 21776

ATTORNEY: N/A

REQUEST: An application for a conditional use for the storage of contractor's equipment and a variance from the required 400 ft. to 200 ft. to the Bohlman property and from 400 ft. to 355 ft. to the Fiorucci property.

LOCATION: The site is located at 3800 Franklinville Road, New Windsor, on property zoned "A" Agricultural District in Election District 9.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-71 (5) and 223-16 (B) & (D)

HEARING HELD: November 27, 2012 and March 27, 2013

FINDINGS AND CONCLUSION

On November 27, 2012 and March 27, 2013 the Board of Zoning Appeals (the Board) convened to hear the request for a conditional use for the storage of contractor's equipment and a variance from the required 400 ft. to 200 ft. to the Bohlman property and from 400 ft. to 355 ft. to the Fiorucci property. Based on the testimony and evidence presented, the Board made the following findings and conclusions.

Timothy Wright and his wife Jackie Wright have a business of renting out port-a-pots for events a few times a week. They have been in this business for a little more than one year. He is requesting to store a maximum of 50 port-a-pots, an excavator and some piping at the location set forth in the appeal. The Wrights own a total of 120 port-a-pots. The property that the Wrights are renting is a one acre parcel that is a part of an 800 acre farm. The farm is owned by John Condon. Although the one acre parcel is mowed it is not and has not been used for growing crops. There was no indication where the remaining 70 port-a-pots were stored.

The Wrights want to use the one acre parcel as a place to store their 50 port-a-pots. The port-a-pots would be cleaned and vacuumed at the sites where the events took place before being

taken back to the one acre site. There would be no septic waste in the pots on the property, and the pots would not be cleaned on the property. No office would be located on the property and the only use for the business would be for the storage of the port-a-pots. The Wrights would be willing to purchase trailers to house the port-a-pots and paint those trailers. A maximum of twenty-two pots could be stored in a trailer. The idea is to keep the port-a-pots in trailers and not leave the individual port-a-pots placed on the ground. The trailers would not be moved and the port-a-pots would be hauled by other vehicles.

Neighbors were not pleased with seeing port-a-pots placed on the property. The neighbors thought that the port-a-pots were an embarrassment and a decrease to their property values. No fence could be built that would be high enough to conceal the port-a-pots. However, it was unclear how the neighbors would feel about trailers being placed on the property though. Some neighbors also complained about a common road that was used by the Wrights to move the port-a-pots a few times a week. The trips for the movement of the port-a-pots would not be daily.

Rose Tomarchio testified as a neighbor in opposition to the requested conditional use. She believed that her property values would decrease. She also believed that the site of the port-a-pots was unsightly. She could not see the port-a-pots where she lived on lot 7 on Franklinville Road. However, she said that on lot 8, which is currently unimproved land, the port-a-pots could be seen.

Jeremy Skczelak also testified as a neighbor in opposition to the requested conditional use. He requested that the port-a-pots and the trailers be removed. He recently purchased his property with full knowledge that the port-a-pots and trailer were there. Mr. Skczelak submitted Protestant Exhibit 1, four pages of documents that he received from a realtor. Although he testified that he believed the port-a-pots and the trailers would be removed, he submitted into evidence documentation that the contractor's equipment storage yard could be appealed to the Board. He was testifying at a Board hearing before the case was decided by the Board.

There was much testimony about the quality of the road used to access the contractor's equipment storage yard. One road was a dirt road that was in poor condition. This road was shared by the Wrights and two or three other neighbors. The record was unclear as to who the owner of the road was or who was responsible for maintaining the road.

Matthew Meade testified that the road in question was going to be straightened out and corrected.

At the end of the first day of the hearing the Board continued the case in order for individuals to determine if the port-a-pots could be located somewhere else on the 800 acre farm. The farm owners had a concern that they wanted the business at a location where it would not interfere with the farm operations. On February 7, 2013 the Board received a letter signed by Mr. Wright and Mr. Condon. In the letter it states that "there are no other sites on the farm for the contractor's yard." The letter also indicated that trailers at the present location would be an acceptable situation for the business. Mr. Wright wanted to continue with his present

application. However, he would no longer need a variance as he had relocated the port-a-pots and trailers to a location that would not require the need for a variance.

The hearing was continued on March 27, 2013. The Wrights testified again at that time. Ms. Tomarchio, Mr. Skczelak, and Mr. Meade also testified on the second day of the hearing.

The Board is convinced that authorization of the requested conditional use for the storage of contractor's equipment is consistent with the purpose of the zoning ordinance, appropriate in light of the factors to be considered regarding conditional uses in the zoning ordinance, and will not unduly affect residents of adjoining properties, the values of those properties, or public interests. Although the Board heard bald allegations that property values would decrease, the Board did not accept the summary conclusions by neighbors without any support. The Bureau of Comprehensive Planning wrote that it did not believe that the requested use "would have an adverse impact on the surrounding neighborhood."

4/3/2013
Date


Richard J. Simmons, Chairman

Decisions of the Board of Zoning Appeals may be appealed to the Circuit Court for Carroll County within 30 days of the date of the decision pursuant to Article 66B, Section 4.08 of the Annotated Code of Maryland Rules of Procedure.

Pursuant to Section 223-192C of the County Code, this approval will become void unless all applicable requirements of this section are met. Contact the Office of Zoning Administration at 410-386-2980 for specific compliance instructions.

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