

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY MARYLAND

APPLICANT: Joseph P. Medved, President Outside Unlimited, Inc.
2 Donagh Court
Lutherville, Maryland 21093

REQUESTS: Conditional use for a contractor's equipment storage building and yard in conjunction with a nursery and landscaping firm, and a variance reducing the minimum distance requirements of 400 feet.

LOCATION: South of Saint Paul Road with access therefrom about .37 of a mile west of Hanover Pike intersection in Election District 8.

BASES: Article 6, Sections 6.3(e) and 6.7; Article 15, Section 15.5; Zoning Ordinance 1E.

HEARING HELD: April 29, 1988

FINDINGS AND CONCLUSION

Based on the application, testimony and evidence comprising the record of this case, the Board hereby authorizes the requests, subject to the conditions noted below. The pertinent findings include the following facts:

The location of the proposed contractor's equipment storage building and yard are within Carroll County, adjacent to the Baltimore County line as shown on the plan identified as Applicant's Exhibit 2. The plan also shows that the site is composed of two parcels containing a total area of slightly more than 57 acres, of which approximately 15.754 acres are located in Carroll County and 41.95 acres are located in Baltimore County. The zoning classification of the land within Carroll County is "A" Agricultural District. The contractor's equipment storage building and yard are planned for establishment in conjunction with a nursery, which is intended to supply trees, shrubs, ground covers, and grasses to be used in conjunction with the commercial landscaping business. Vehicular access is proposed to and from the premises by a driveway connecting to St. Paul Road. The dimensions of the proposed two story building are 80 feet by 120 feet. Plans include servicing and storage of equipment on the lower level of the bi-level building. The upper level, which would also have vehicular access at grade, includes an office area, material storage, and light equipment storage as indicated on Applicant's Exhibit 3. Approximately 80% of the materials are planned to be stored within the building.

Bales of mulch, nursery stock, and heavy equipment would be stored within the yard or nursery fields. As noted on the application, the initial employment would total 30 employees, half of which would be skilled and half semi-skilled. The major equipment proposed for use and storage are as listed on Applicant's Exhibit 5.

Testimony presented regarding the proposed location of the equipment storage building and yard sited the particularly suitable topography providing for the bank-barn type construction into the side of the hill facilitating vehicular access at both levels of the building. As shown on the proposed plan, employee parking would be located as close as 180 feet to an adjoining residential property. Proposed evergreen screening is shown next to the property line on the proposed plan. The proposed building is located 250 feet from the same property line. Testimony presented on behalf of the request noted that marshy soil conditions adjacent to the small spring fed stream located to the south of the building would present difficulty in locating the building and yard further from the residential property, and that in order to incorporate construction of the bank-barn type building, it would be necessary to excavate into the side of the hill. Conflicting testimony was presented regarding existing visibility of the proposed site from the adjacent residence. The proposed storage yard would be located on the southerly side of the building, and at the lower level of the building. Visibility of the storage yard would be obstructed or substantially reduced because of the topography and proposed evergreen screening noted above.

An expert in real estate appraisal testified of behalf of the applicant, concluding that the use as proposed would not adversely affect the orderly growth of the area, the peaceful enjoyment of nearby residents in their homes, or residential property values. As noted in the expert's report identified as Applicant's Exhibit 7, development of the contractor's equipment storage building and yard in conjunction with the nursery and landscaping business would be an appropriate land use and compatible with the neighborhood.

Testimony and evidence presented in opposition to the requests cited an increase in vehicular traffic to and from the site, unsafe vehicular traffic conditions of St. Paul Road and its extension identified as Bortner Road in Baltimore County, and the intersection of Bortner Road with Hanover Pike with Maryland Route 30 which is also known as Hanover Pike. In addition, concerns were expressed regarding

dust, noise and potential expansion or enlargement of the contractor's equipment storage building and yard in the future that would substantially increase detrimental effects to the adjacent properties and surrounding area.

As Ordinance Number T-76, amending the provisions of the zoning ordinance including those of Article 6, "A" Agricultural District; Section 6.3 (e) was duly adopted by the County Commissioners of Carroll County and became effective April 18, 1988, consideration of this request is governed by the amended provision which reads in part:

"(e) 1. Contractor's equipment storage facility located in an area of the property comprising no more than 43,560 square feet and which shall comply with at least twice the distance requirements of Section 4.12." Even though this application was filed and processed for public hearing prior to the adoption of the amendment, this Board and consideration of the request is governed by the amended provision. Although the provisions of Article 15, Section 15.5 of the zoning ordinance state that this Board may authorize variances to the distance requirements specified in Section 4.12, Ordinance Number T-76 does not include authority for this Board to allow contractor's equipment storage facilities in excess of the maximum area of 43,560 square feet, which is the equivalent of 1 acre.

In considering the record of this case, the Board is convinced that authorization of the contractor's equipment storage facility, subject to the conditions of authorization noted below, complies with the provisions of Article 17, Section 17.6 of the zoning ordinance, including the standard established by the decision of Schultz v Pritts, 291 of MD 1,P22,23 regarding special exceptions, which are termed conditional uses in the Carroll County zoning ordinance. In addition, the Board finds that the circumstances regarding the use of the property in locating the contractor's equipment storage facility, which includes the storage yard and employee parking area warrants relaxation of the applicable minimum distance requirements governing its location.

In order to promote the intent and purpose of the zoning ordinance the Board hereby imposes the following conditions of authorization for the contractor's equipment storage facility and variance to the minimum distance requirements of 400 feet pertaining thereto as follows:

1. The maximum area for the contractor's equipment storage facility, including the building, storage yard, and employee parking area shall not exceed 43,560 square feet.
2. The contractor's equipment storage facility shall not be located closer than 200 feet to the property line of the adjoining residence.
3. No business identification sign is authorized for erection in conjunction with establishment of the contractor's equipment storage facility.
4. A revised site plan shall be required in accordance with the provisions of Article 10, Section 10.4(d) of the zoning ordinance. The plan shall include details and dimensions for the contractor's equipment storage facility, including employee parking spaces in accordance with the provisions of the zoning ordinance. The proposed evergreen screening shown on the site plan identified as Applicant's Exhibit 2 shall be retained, and the specifications of the type or types of trees to be planted shall be included on the plan.
5. The contractor's equipment storage facility shall be enclosed with a chain link or similar type fence, at least 6 feet in height. The fence shall be established at the perimeter of the 1 acre facility, and its location shall be shown on the revised site plan.
6. In addition to the conditions noted above, and in order to assure that the contractor's equipment storage facility not be expanded or enlarged beyond the record before this board, the storage of major equipment shall be specifically required to be within the facility, and shall be restricted to the equipment noted on Applicant's Exhibit 5 which lists:

TRUCKS

- (3) International 1900 Diesel Flatbed
- (1) GMC 7000 4WD Flatbed
- (1) Ford 1750 4WD Bronco
- (1) Ford 350 4WD Flatbed
- (1) Ford 350 Flatbed
- (1) Ford 350 4WD Pickup
- (3) Ford 250 4WD Pickup
- (1) International 1700S Flatbed
- (1) International 1654 Flatbed

TRACTORS

- (1) John Deere 310B Loader-Backhoe
- (2) Bobcat 843 Loader-Treespade
- (1) John Deere 2640 Loader & 3PH
- (2) Bobcat 975 Loader

OTHER MAJOR EQUIPMENT

- (1) Hydroseeder (1,500 gal.)

- (2) Straw Blower-Mulcher
- (2) York Rakes
- (2) Box Scraper
- (1) Tree Spade
- (1) Wood Chipper
- (2) Dual Axle Trailers
- (2) Tri Axle Trailers
- (1) Water Truck (1,500 gal.)
- (1) Plow
- (1) Disc
- (1) Soil Mixer

Replacement of this equipment shall be limited to the same, or similar type equipment.

June 24, 1988

Date

John Totura

John Totura, Chairman