

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY MARYLAND

APPLICANTS: Melvin Kabik and T. J. Angelozzi, Inc.
1209 Trappe Lane
Riderwood, Maryland 21139

ATTORNEY: David K. Bowersox, Esq.
127 East Main Street, P. O. Box 525
Westminster, Maryland 21157

REQUEST: Conditional use for an explosives storage facility.

LOCATION: On property located on the southerly side of Kabik Court about
1,800 feet southwest of Hood's Mill Road in Election District 4.

BASIS: Article 13, Section 13.2(a); Zoning Ordinance 1E.

HEARING HELD: June 1, 1988

FINDINGS AND CONCLUSION

Based on the application, testimony and evidence comprising the record of this case, the Board hereby authorizes the request, subject to the regulations and requirements of the Bureau of Alcohol, Tobacco, and Firearms of the U.S. Department of Treasury, and the State Fire Marshal's Office. The pertinent findings justifying the authorization include the following facts:

The property is a proposed lot of approximately 4.9 acres located within the Greater Carroll Industrial Park subdivision. The lot and adjacent parcels within the subdivision are zoned "I-G" General Industrial District, which is the least restrictive zoning district of the zoning ordinance. The land use regulations for the "I- G" General Industrial District are specified in Article 13 of the ordinance, and include principle permitted uses, conditional uses, and accessory uses. The prologue of the district states:

"The purpose of this district is to provide for manufacturing processing which may require extensive transportation, water and/or sewerage facilities, as well as open space, because of the number of employees, the type of manufacturing operation, or any by-products which might result from the heavier or larger manufacturing plants proposed."

experts in the field of explosives presented credible testimony in behalf of the request, confirming that the use, as proposed and regulated, would not present a safety hazard to the adjoining properties.

In considering the record of this case, the Board is convinced that the proposed conditional use is in accord with the provisions of Article 17, Section 17.6 of the zoning ordinance, including the standard expressed in the Court of Appeals decision of Schultz v. Pritts, 291 Md. 1, p. 22, 23. Accordingly, the conditional use is authorized, subject to the regulations and requirements of the Bureau of Alcohol, Tobacco, and Firearms of the U.S. Department of the Treasury, and the State Fire Marshal's Office, and further subject to the condition that no explosives, caps or related parts thereof shall be sold to others.

The applicants' attention is directed to the provisions of Article 13, Section 13.6 of the zoning ordinance referencing the provisions of Section 10.4(d) which requires submission of the site development plan to the Zoning Administrator for review and approval by the Planning and Zoning Commission, or its duly authorized representative.

June 20, 1988

Date

John Totura

John Totura, Chairman

With adoption of the zoning ordinance, the principle permitted uses listed in Section 13.1 were legislatively determined to be appropriate and compatible land uses within the district. The conditional uses listed in Section 13.2 also presumed to be appropriate and compatible uses in the district, subject to Board approval based on evidence confirming the presumption.

In this case, the principal applicant, Mr. Angelozzi, who is a blasting contractor proposes to establish a warehouse, office, and two magazines--also referred to as bunkers--on the site. Section 13.1(c) specifies that Principal Permitted Uses allowed in the "I-R" Restricted Industrial District are also allowed in the "I-G" General Industrial District. Article 12, "I-R" Restricted Industrial District; Section 12.1 Principle Permitted use, paragraph (b) allows warehouses as principle permitted uses: hence, the warehouse is a principle permitted use for this property. Section 13.2, Conditional Uses, paragraph (a) specifies, "explosive manufacture or storage." The office, although first allowed within the "B-L" Local Business District as a principle permitted use, is considered to be an accompanying, but subordinate, land use in conjunction with the explosive storage and warehouse.

Mr. Angelozzi testified in behalf of the request explaining that the topography of the site is particularly suitable for the proposed use, and that the sole type of explosive used and proposed for storage on the property is a stable water gel compound that may be stored and transported safely. The proposed location, construction, and security of the premises, including the magazines, are intended to minimize any affects to the adjoining properties, and to comply with, or exceed, applicable regulations. Establishment and operation of the business will involve only a moderate number of employees, and will not generate substantial vehicular traffic to and from the site. The Bureau of Alcohol, Tobacco, and Firearms of the U.S. Department of the Treasury, and the State Fire Marshal's office are responsible for licensing, regulating, and inspecting explosives, including their storage and transportation.

Although concerns were expressed regarding possible affects to an adjacent underground petroleum products pipeline in the event that the explosives would somehow detonate, and to residential development in the general area, no probative evidence was introduced in substantiation of the concerns. In contrast, several