

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND

APPLICANT: Harry E. Franklin  
4636 Ridge Road  
Mt. Airy, Maryland 21771

ATTORNEY: David K. Bowersox, Esq.  
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127 East Main Street  
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REQUESTS: A request to modify conditions imposed in Cases 2182 and 1683 to permit exterior storage of utility buildings and other products, and construction of an additional building and use of an existing accessory building for storage and such products.

LOCATION: 4617 Ridge Road (Md. Rt. 27) in Election District 9

BASES: Article 17, Section 17.2; Article 4, Section 4.3(a)1; Zoning Ordinance 1E.

HEARING HELD: August 31, 1988

FINDINGS OF FACTS

The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. The pertinent findings include the following facts:

On March 3, 1981 the Board heard Case 1683, a conditional use request for the establishment of an office to conduct mail order and catalogue sales of utility buildings, wood stoves and lawn mowers. The Board conditionally authorized the request in its written decision, Applicant's Exhibit 2, March 13, 1981. The conditions read:

1. No service of repair shall be permitted on the subject property for lawn mowers purchased in conjunction with the operation of the subject business.
2. One double-faced unlighted sign, not larger than nine square feet may be erected in conjunction with the establishment of the subject business advertising the sale of utility buildings,

wood stoves, and lawn mowers. The existing advertising signs for said products are not authorized in conjunction with this decision and shall not be displayed on the property.

3. The driveway connections to Md. Rt. 27 shall be subject to the requirements of the Bureau of Engineering Access Permits of the State Highway Administration.
4. Customer parking and maneuvering space shall be provided on the subject property. No customer parking shall be permitted within the -right-way or along the shoulders of Md. Rt. 27.
5. Any lights erected in conjunction with the subject business shall be shaded or shielded so that the light source cannot be seen from adjacent properties or from Md. Rt. 27.

On September 25, 1984 in Case 2182, the Board was requested to allow expansion of the cabinet shop, classified as a nonconforming use, to include the assembly, storage and sale of storage sheds, or utility buildings. The expansion involved construction of a new building, forty-two feet in width by one hundred feet in length, using half of the building for fabrication and storage of utility buildings. Mr. Franklin proposed that the remaining half of the building be used for storage and repair of farm machinery. In its decision the Board acknowledged Mr. Franklin's agreement with the Zoning Administrator following issuance of a Notice of Violation dated November 7, 1983. The agreement was to limit the number of utility buildings kept and displayed of three sample models; to construct utility sheds only to fill customer orders, and, to display only one sample model of a picnic table and a dog house. The request was conditionally authorized on October 23, 1984. The conditions specified in the Board's written decision, Applicant's Exhibit 2, are:

1. In accordance with the applicant's testimony, authorization of the enlargement of the cabinet shop, as a nonconforming use, is limited to fifty percent of the floor area of the proposed forty-two feet by one hundred feet building, for use including assembly, storage and sale of storage sheds or utility buildings.
2. The applicant shall submit a floor plan of the proposed building to the Zoning Administrator showing all pertinent dimensions of the building and area to be used, as well as the uses within the area, for the enlargement of the cabinet shop.
3. No assembly, or construction, or storage of storage sheds or utility buildings outside of the proposed building is authorized by this decision, except as specified below.

4. Not more than three samples of storage sheds or utility buildings shall be displayed on the subject property at one time. Said buildings may only be displayed in front of the existing cabinet shop and shall be located at least forty feet from the shoulder of Maryland Route 27 adjoining the subject property.
5. The conditions of authorization in Case 1683 otherwise remain in effect.

Within the conclusion of the decision, the Board noted:

As both the cabinet shop and the assembly, or construction, of storage sheds or utility buildings involve carpentry, the extension of the mail order and catalogue sales of utility buildings to include the assembly, or even custom construction of such buildings is reasonable.

Products of the cabinet shop include, but are not limited to, grandfather clocks and rolltop desks, which are stored solely in the shop. In addition to utility buildings, or storage sheds, the products available through the mail order and catalogue sales office include but are not limited to gazebos, picnic tables, lawn chairs, and dog houses. These products are stored within half of the forty-two feet by one hundred feet building authorized in Case 2182. Storage sheds or utility buildings, and other large items are stored outside. Lawn mowers, which are conditionally authorized as a catalogue sales item in Case 1683 are not sold, and are no longer included as a catalogue sales item.

Similar, if not the same, problems noted in the decision of Case 2182 continue presently in what is now the combined operation of the catalogue sales business (Case 1683) and the expanded nonconforming cabinet shop (Case 2182). The principal problem involves storage on the premises, prior to delivery of the respective order to the customer of:

1. utility buildings, or storage sheds, and other items, such as gazebos, picnic tables, and lawn chairs ordered by customers and shipped to Mr. Franklin for assembly; and,
2. custom ordered utility buildings, or storage sheds constructed on the premises by Mr. Franklin.

The conditional authorization in 1984 in Case 2182 for storage within 50

percent of the forty-two feet by one hundred feet building has not resolved the storage problem.

Secondary problems include the display of sample models of catalogue products for sale, and the area of the business identification sign conditionally authorized in Case 1683.

Mr. Franklin now requests authorization of exterior storage space for the larger items and use of the existing barn for storage of smaller items as his first preference. The request for a new storage building is proposed only as an alternative to the exterior storage and interior storage in the barn. In addition, Mr. Franklin requests modification of the conditions in Case 1683 and 2182 pertaining to the business identification sign and display of sample models.

#### CONCLUSION

The original conditions of authorization in the previous cases were imposed to promote the intent and purpose of the zoning ordinance. In considering the record of this case, the Board finds that modification of the conditions of authorization imposed in Cases 1683 and 2182 will continue to promote the intent and purpose of the zoning ordinance, and therefore orders the modifications as follows:

Conditions of authorization in Case 1683, a conditional use for an office to conduct mail order and catalogue sales of utility buildings, wood stoves, and lawn mowers.

1. No service or repair shall be permitted on the subject property for lawn mowers sold in conjunction with the operation of the catalogue sales business. (Although lawn mowers are not now included in catalogue items for sale, this condition shall remain in effect.)
2. The existing freestanding double-faced unlighted business identification sign erected for Ridge Cabinet Company listing items for sale is authorized, subject to Mr. Franklin filing a permit and

zoning certificate application, including a sketch of the sign drawn to scale, with the Bureau of Permits and Inspections. Mr. Franklin shall also submit a copy of the sketch to the Office of Administrative Hearings for filing with the record of this case. The application and sketch shall be filed within fifteen (15) days of the date of this decision. No other business identification or advertising signs are authorized in conjunction with the mail order and catalogue sales office.

3. The driveway connections to Md. Rt. 27 shall be subject to the requirements of the Bureau of Engineering Access Permits of the State Highway Administration.
4. Customer parking and maneuvering space shall be provided on the premises. No customer parking shall be permitted within the right of way or along the shoulders of Md. Rt. 27.
5. Any lights erected in conjunction with the business shall be shaded or shielded so that the light source cannot be seen from adjacent properties or from Md. Rt. 27.

Conditions of authorization for Case 2182, a request to allow expansion of a cabinet shop, classified as a nonconforming use, to include assembly, storage and sale of storage sheds, or utility buildings.

1. In accordance with the applicant's testimony, authorization of the enlargement of the cabinet shop, as a nonconforming use, is limited to fifty percent of the floor area of the proposed forty-two feet by one hundred feet building, for use including assembly, storage and sale of storage sheds or utility buildings.
2. The applicant shall submit a floor plan of the proposed building to the Zoning Administrator showing all pertinent dimensions of the building and area to be used, as well as the uses within the area, for the enlargement of the cabinet shop.
3. No assembly, construction, or storage of storage sheds or utility buildings outside of the proposed building is authorized by this decision, except as specified below.
4. Not more than three large items, such as storage sheds, gazebos, swing sets, and picnic tables, etc., and two smaller items such as lawn chairs, dog houses, etc. totaling not more than five sample items shall be displayed at one time in front of the cabinet shop and barn. The items displayed shall be located at least forty feet from the nearest edge of the shoulder of Ridge Road (Md. Rt. 27).
5. The modified conditions of authorization in Case 1683, as stated above, are now in effect.

In considering the request to permit exterior storage of utility buildings and other products, and use of an existing accessory building, described as a barn, for additional storage space, the Board finds no indication that authorization for the establishment of exterior storage space, as described below, and use of the existing accessory building, identified as the thirty-two feet by forty-one feet barn on the plot plan, for storage of smaller items would adversely affect the adjacent properties. However, the Board directs attention to Article 6, Section 6.3(s) of the Carroll County Zoning Ordinance which states:

Offices to conduct mail order and catalogue-type operations where operated by a resident of the property, provided no inventory or merchandise is kept on the premises for sale (except samples and the like) and provided the Board may approve no more than two non-resident employees.

Therefore, the only items that may be legally stored on the premises in operating the catalogue sales business authorized in Case 1683 and the expansion of the nonconforming use cabinet shop, allowing assembly, or construction, of storage sheds or utility buildings are:

- a. one sample model of each catalogue item solely for display to customers, but not for sale
- b. catalogue items ordered by customers and shipped to the premises, whether requiring assembly on the premises or not, prior to delivery to the purchaser of the particular item
- c. custom ordered items requiring construction on the premises prior to delivery to the purchaser of the particular item

Accordingly, the Board hereby authorizes:

1. Establishment of an area not exceeding fifty feet in width by one hundred feet in length for exterior storage of large items such as storage sheds, or utility buildings, gazebos, swing sets, and picnic tables, etc. The area shall be located approximately twenty feet to the rear, or west, of the building conditionally authorized in Case 2182, as shown on the plot plan attached to this decision.

2. Use of the existing barn for storage of smaller items.

With authorization of the exterior storage space and the existing barn for additional storage space within a building, the request for construction of an additional building is unreasonable and is hereby denied.

A copy of a plot plan showing part of the property is attached to this decision to identify the display area for the sample models, cabinet shop, barn for storage of smaller items, storage building, and exterior storage area.

Oct, 28, 1988  
DATE

John Totura  
JOHN TOTURA, Chairman

