

Case 3221

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANTS: Harry C. Hohman and Jean D. Hohman
5937 Keysville Road
Keymar, Maryland 21757

ATTORNEY: Michael M. Galloway, Esq.
24 North Court Street
Westminster, Maryland 21157

REQUEST: A conditional use for parking facilities for
commercial vehicles.

LOCATION: 5937 Keysville Road in Election District 1

BASIS: Sections 6.3(x) and 6.7; Ordinance 1E (The
Carroll County Zoning Ordinance)

HEARING HELD: September 28, 1989

On September 28, 1989, the Board of Zoning Appeals heard testimony and received evidence concerning a conditional use for parking facilities for commercial vehicles at 5937 Keysville Road. Prior to the public hearing, the Board visited the site on September 26, 1989. The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. Based on the record the request will be authorized, subject to conditions of authorization specified below. The pertinent findings by the majority of the Board include the following facts.

FINDINGS OF FACT

The applicants' home is located at 5937 Keysville Road, which fronts on Keysville Road and is identified as parcel 31 on the site location map used to post the Hearing Notice sign on the property. The applicants own a second parcel containing 16.062 acres of land, more or less, purchased in November 1977, which is identified as parcel 170 on the site location map. As depicted on the plot plan submitted with the application, the second parcel abuts the home site on the westerly side property line, the southerly or rear property line, and part of the easterly side property line. A single driveway connecting to Keysville Road provides for vehicular access to both parcels.

In 1983, a farm building-wagon shed, 50 feet by 96 feet, was erected on the 16 acre parcel following issuance of Permit Application and Zoning Certificate 83-6046. The conditional use request is for parking of commercial vehicles within this

building. The plot plan submitted in the present case shows that the building is located 40 feet from the front property line, which is also the rear property line of the Roop homesite.

Although no dimensions pertaining to the side or rear yards are noted on the plot plan, it is evident that by employing both of the applicants' parcels the building complies with the minimum required side yards of 30 feet each and a rear yard of 50 feet.

The applicants operate a pizza concession business at fairs, carnivals and similar events from May until October. Commercial vehicles used in conducting the business would be parked or stored within the building. Prior to scheduled events, the vehicles would be driven to sites and used in conducting the business. Upon conclusion of the event the vehicles would be either driven to the next event or returned to the premises and parked in the building.

The applicants presently operate and propose to park the following commercial vehicles in the building.

- 3 refrigerated pizza trailers
- 1 lemonade trailer
- 1 step van equipped with freezers
- 1 truck used to transport a peanut roaster

Although the vehicles may be washed outside of the building, no parking or storage outside of the building is proposed.

Deliveries of supplies for operation of the business would be scheduled other than at the premises.

In essence, the proposal is to allow the continued use of the premises similar to the applicants' practice after the farm building-wagon shed was erected in 1983, but specifically excluding deliveries and storage of supplies. Mrs. Holman testified that they purchased a franchise for the pizza concession business and started the business in October of 1967. Initially, they operated one pizza freezer truck.

Operation of a truck or motor freight terminal, involving deliveries, storage, or transfer of goods from delivery vehicles to other vehicles--whether direct or indirect--is in violation of the provisions of Article 6, Section 6.3(x) of Ordinance 1E.

Opposition to the request was primarily based on the use of the premises in the past, including delivery by tractor-trailer of supplies used to operate the business.

APPLICABLE LAW

Both of the applicant's properties, parcels 51 and 170, are zoned "A" Agricultural District as shown on Zoning Map 27B. The land

use provisions for the district appear in Article 6 of Ordinance 1E. Section 6.3, Conditional uses (requiring Board authorization), subsection (x) states:

"Parking facilities for commercial vehicles, not to include truck or motor freight terminals, provided the Board shall have the authority to limit the number of vehicles based on the considerations enumerated in Section 17.6 and provided the Board determines sufficient space is available to park the vehicles without disturbance to the neighboring properties. Notwithstanding the area requirements of Section 6.7, the Board may consider applications on sites of less than three acres. (Added 12-11-79)"

Section 6.7, Lot area, lots width and yard requirements specifies the minimum requirements of 200 feet for the lot width, 40 feet for the front yard, 30 feet for each of the side yards, and 50 feet for the rear yard.

Article 17, Board of Appeals; Section 17.7, Limitations, guides and standards--previously known as Section 17.6 until amended July 12, 1988--of Ordinance 1E governs the Board in considering conditional use requests.

REASONING

The issue in this case, regardless of the past history of the operation of the business, is whether the use of the building as a parking facility for commercial vehicles would unduly affect the residents and owners of adjoining properties, or the value of their properties.

The principal affect of parking the commercial vehicles within the building will be the additional trips of the vehicles from the building to the events and their return to the building. The additional trips will be from May to October, and will occur from day to day depending on the scheduled event. The trailers may remain at particular events from seven to twelve days without returning to the building. When the vehicles are parked in the building and the access doors to the building are closed, the vehicles will not be visible from adjoining properties.

In considering the record of this case, there is no substantive evidence that use of the building for parking the commercial vehicles, as proposed and conditioned below, would adversely affect use of the adjoining properties, their property values, or be contrary to the purpose of the zoning ordinance.

CONCLUSION

Therefore, the majority of the Board hereby authorizes the conditional use, subject to the following conditions of authorization:

1. Commercial vehicles that may be parked within the existing building shall be limited to:

3 refrigerated pizza trailers

1 lemonade trailer

1 step van equipped with freezers

1 truck used to transport a peanut roaster

The listed commercial vehicles may be replaced with similar new or used vehicles as necessary.

2. The commercial vehicles shall not be parked outside of the building except during incidental preparations to place the vehicles inside the building.

3. Due to the particular circumstances in this case, including the facts that the use of the commercial vehicles is from May to October, and that the number of trips to and from the property by the commercial vehicles is predicated on the scheduling of the fairs, carnivals and similar events, the authorization is restricted solely to the applicants and their heirs for parking of the commercial vehicles within the building in accordance with the applicants' testimony and the conditions of this decision.

This condition does not preclude future application by assigns for a conditional use for parking of commercial vehicles in accordance with the provisions of the zoning ordinance.

The Chairman, John Totura, dissents with the conditional authorization of the applicants' conditional use request.

Oct. 27, 1989
Date

John Totura
John Totura, Chairman