

Tax Map/Block/Parcel
No. 51-7-401

Building Permit/Zoning
Certificate No. 90-3800

Case 3489

**OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND**

APPELLANT: John J. Wingert
1431 Nicodemus Road
New Windsor, Maryland 21776

APPEAL: An appeal of the Notice of Violation, dated October 12, 1990, for maintaining a junkyard as defined in Section 20.23 by storing abandoned electronic equipment in an "A" Agricultural District contrary to the provisions of Ordinance 1E

LOCATION: 1431 Nicodemus Road in Election District 11; Wakefield Estates subdivision, Tract 1, recorded in Carroll County Plat Records in book 9, page 81

BASIS: Article 17, Section 17.4; Ordinance 1E (The Carroll County Zoning Ordinance)

HEARING HELD: January 30, 1991

On January 30, 1991, the Board of Zoning Appeals heard testimony and received evidence concerning the appeal of the Notice of Violation, dated October 12, 1990, for maintaining a junkyard as defined in Section 20.23 of the zoning ordinance by storing abandoned electronic equipment in an "A" Agricultural District contrary to the provisions of Ordinance 1E at 1431 Nicodemus Road in Election District 11. The property is also known as tract 1 of Wakefield Estates as recorded in Carroll County Plat Records in book 9, page 81.

The Board visited the site on January 24, 1991.

The appeal, testimony and evidence comprising the record of this case are hereby included by reference in this decision. Based on the record, the Board will affirm the appeal and order dismissal of the Notice of Violation.

The pertinent findings determining the Board's decision include the following facts.

FINDINGS OF FACT

The 5 acre property is located on the easterly side of Nicodemus Road about 1/2 mile north of Bowersox Road intersection. As depicted by the plot plan submitted with the

appeal, it is improved with a single family dwelling located near the center of the property. The appellant, Mr. Wingert has resided there with his wife about 11 years.

Mr. Wingert is an electronics technician and his hobby involves study of the universe.

For approximately 10 years, Mr. Wingert has maintained 3 satellite microwave receiving antennas on his property. They are capable of receiving satellite television and radio signals. Mr. Wingert testified that they are functional and valuable antennas. In the future, he proposes to use the antennas in the development of an amateur astronomical observatory.

Following an inspection on September 12, 1990, by a zoning inspector, a Notice of Violation was issued to Mr. Wingert by the Division of Zoning Enforcement. The violation cited in the notice was for maintaining a junkyard as defined in Section 20.23 of the zoning ordinance by storing abandoned electronic equipment on his property. The notice ordered removal of the abandoned electronic equipment from the property.

Mr. Wingert subsequently filed this appeal.

APPLICABLE LAW

The property is zoned "A" Agricultural District as depicted on zoning map 51A. The land use provisions for the district are specified in Article 6 of the zoning ordinance. Junkyards are not allowed as either principal permitted, conditional, or accessory uses.

Article 20, Definitions; Section 20.23, Junkyard, Paragraph (a) of the zoning ordinance states:

Any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, stored, disassembled, handled, abandoned, including the salvaging, storing, wrecking of automobiles and other vehicles, machinery or parts thereof, house wrecking yards, used lumber yards and places for storage of salvaged building or structural steel materials and equipment.

Paragraph (b) of Section 20.23 is not relevant to this appeal.

Article 17, Board of Appeals; Section 17.4, Appeals and Applications to Board, of the zoning ordinance governs the appeal in this case.

REASONING

The issue before the Board in this case is the appeal of the Notice of Violation, dated October 12, 1990. The Board finds from the testimony and evidence received in this case that the satellite microwave receiving antennas are valuable and functional electronic equipment. There is no evidence that the antennas have been abandoned or, in fact, are junk. Mr. Wingert is not maintaining a junkyard as defined in Article 20, Section 20.23(a) of the zoning ordinance.

CONCLUSION

Accordingly, Mr. Wingert's appeal of the Notice of Violation dated October 12, 1990, for maintaining a junkyard as defined in Section 20.23 of the zoning ordinance by storing abandoned electronic equipment in an "A" Agricultural District contrary to the provisions of Ordinance 1E is hereby affirmed, and the Notice of Violation is hereby dismissed.

Feb. 14, 1991
Date

JDN/bmh/c3489dec
February 13, 1991

John Totura
John Totura, Chairman