

Tax Map/Block/Parcel  
No. 30-4-192

Building Permit/Zoning  
Certificate No. 91-1250

Case 3565

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND

**APPLICANTS:** Theodore J. Daigle, Sr. and M. Frances Daigle  
2542 Murkle Road  
Westminster, Maryland 21157

**ATTORNEY:** Wesley D. Blakeslee, Esquire  
104 East Main Street  
Westminster, Maryland 21157

**REQUEST:** A request to amend condition 5 of Case 2867 to  
allow construction office trailers to be parked  
on the premises

**LOCATION:** 2542 Murkle Road in Election District 3

**BASIS:** Article 17, Section 17.2; Ordinance 1E. (The  
Carroll County Zoning Ordinance)

**HEARING HELD:** June 25, 1991

On June 25, 1991, the Board of Zoning Appeals heard testimony and received evidence concerning the request to amend condition 5 of Case 2867 to allow construction office trailers to be parked on the premises at 2542 Murkle Road.

The Board visited the site June 14, 1991.

The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. Based on the record, the Board will deny the request.

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

FINDINGS OF FACT

In Case 2867, the Board of Zoning Appeals conditionally authorized contractor's equipment storage buildings and a parking facility for commercial vehicles as conditional uses, and a variance reducing the minimum distance requirements of 400 feet pertaining to the contractor's equipment storage buildings. The principal building, 50 feet in width by 100 feet in length, was proposed to be constructed for storage of materials and equipment used in the applicants' electrical business. The building was subsequently constructed and is in use. A then existing smaller building, identified as an implement shed on the plot plan filed in Case 2867, was also authorized for use.

In preparation of the public hearing in Case 2867, the Board visited the site on December 9, 1987. The public hearing of the case was then held on December 30, 1987, and the record of the case was included by reference in the Board's decision.

In authorizing the conditional uses and variance, the Board imposed five conditions in order to promote the intent and purpose of the zoning ordinance. The conditions are:

1. The applicant is directed to submit a site development plan to the Zoning Administrator in accordance with the provisions of Article 10, Section 10.4(d) of Zoning Ordinance 1E. The plan shall include landscape screening to be established along the northerly side property line and in front of the building and employee parking spaces in order to screen the building and employee parking spaces from the property to the north and residential properties located on the east side of Murkle Road.
2. The proposed building shall not be larger than 50 feet in width by 100 feet in length, located as generally indicated on the plot plan identified as Applicant's Exhibit 1, and as pictured by Applicant's Exhibit 3 and described in the presentation to the Board.
3. The proposed driveway, extending from the existing circular paved driveway, to provide access to the proposed building and employee parking spaces shall be paved to a width of not less than 10 feet in width. Not more than 10 employee parking spaces shall be established perpendicular to and abutting the proposed building, and a space of at least 15 feet in width extending from the building shall be paved and identified as parking spaces. The paving shall be either macadam or bituminous concrete.
4. In addition to the required site development plan, the applicant shall submit a floor plan of the proposed building, drawn to scale, identifying the uses within the building, to the Zoning Administrator for filing with this case.
5. One double-faced, unlighted, business identification sign not to exceed 2 square feet per side may be erected adjacent to the existing northerly driveway connection to Murkle Road in conjunction with establishment and operation of the contractor's equipment storage building and parking facility for commercial vehicles. Due to the authorization of both the contractor's equipment storage building and parking facility for commercial vehicles, no exterior storage or parking of contractor's

equipment or commercial vehicles shall be permitted on the premises. (Emphasis extended.)

Mr. Daigle testified that this request was particularly made to allow a large field office-construction trailer to be parked or stored adjacent to the northerly side of the principal building and the northerly side property line when the trailer was not in use at job sites. Due to the lack of electrical construction work, the trailer was returned to the premises about six months ago. A tractor is hired to move the trailer from job site to the next job site, or back to the premises, as necessary. Mr. Daigle also indicated that there was insufficient space within the large building to park or store the trailer, and that the trailer would not be easily seen in the proposed location because of existing bushes and trees.

The Board notices that Mr. Daigle evidently has not complied with condition 4 which requires that a floor plan of the large building be submitted to the Zoning Administrator for filing with Case 2867.

Two smaller trailers that are also used in the business have been brought back to the premises about two weeks ago. One of the trailers is parked in the large building. The record is unclear regarding where the second trailer is parked or stored, and whether they are usually kept at job sites.

In addition to the large field office-construction trailer and two smaller trailers, about ten trucks or vans used in the business are parked or stored in the building.

The plot plan filed with the application depicts a total of ten parking spaces in four separate locations adjacent to the new building and the shed in front of the new building. Evidently, these spaces are intended for employee parking, generally, in compliance with condition 3 of the Board's decision in Case 2867.

The plot plan also depicts an existing hedgerow and trees along the northerly side property line extending from near the front of the shed to the rear of the large building. No evidence was introduced regarding actual ownership of the bushes and trees comprising the hedgerow. Regardless of ownership, hedgerow is of negligible benefit during most of the year. In contrast, evergreen trees appropriately planted on Mr. Daigle's property could be relied on to provide suitable landscape screening of the large building and parking in accordance with the intent of condition 1 of Case 2867. However, there is no indication of any intent to comply with the requirement in condition 1 for the site development plan to "...include landscape screening to be established along the northerly side property line in order to screen the building and employee spaces from the property to the north and residential properties located on the east side of Murkle Road." (Emphasis added.) In fact, Mr. Daigle now proposes

to park the large trailer next to the building, which would preclude establishment of landscape screening in that location.

As portrayed by photographs of the site, identified as Applicants' Exhibits 1 and 2, the building and most of the parking spaces are easily visible from Murkle Road. Although a number of evergreen trees have been recently planted adjacent to the easterly side of the driveway in front of the buildings, as depicted by exhibits 1 and 2, to screen the parking spaces, shed and large building from view from Murkle Road and the properties on the east side of Murkle Road, it is evident that years of growth will be required before the evergreens may provide adequate landscape screening of the conditional uses.

#### APPLICABLE LAW

Articles and Sections cited below are of Ordinance 1E.

The applicants' property and surrounding properties are zoned "A" Agricultural District as depicted on zoning map 30B. The land use provisions for the Agricultural District are expressed in Article 6 of the zoning ordinance. Section 6.3, Conditional Uses (requiring Board authorization), paragraphs (e)1, (Amended 4/1/88), and (x), (Added 12/11/79), read respectively:

- (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.
- (x) 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 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)

With amendment of the zoning ordinance, the reference to Section 17.6 should be read Section 17.7.

Article 4, General Provisions; Section 4.12, Distance Requirements (Amended 7/5/77) reads in relevant part:

Any uses or buildings subject to compliance with this section shall be located at least 200 feet from:

- (b) Any lot of less than 3 acres occupied or intended to be occupied by a dwelling not located on the same lot as the said use or buildings; or,
- (d) The curtilage area within a lot of 3 or more acres improved by a dwelling.

Article 17, Board of Appeals; Section 17.2, General Powers, reads in relevant part:

The Board shall have the following powers:

- (b) To hear and decide conditional uses to the ordinance upon which such Board is required to pass.
- (c) To authorize, upon appeal in special cases, such variance from the terms of the ordinance as will not be contrary to the public interests, where owing to special conditions, enforcement of the provisions of this ordinance will result in unwarranted hardship and injustice and which will most nearly accomplish the purpose and intent of the regulations of the Zoning Ordinance.

In exercising the above-mentioned powers, the Board may in conformity with provisions of law and this ordinance and amendments thereto, ...make such order, requirement, decision or determination as ought to be made.

#### REASONING

In the past, the principal use of the property was farming, as evidenced by the large barn, smaller agricultural buildings, and dwelling. However, the site location map for Case 2867, as well as this case, depicts subdivision of nearby land into lots of various sizes for residential purposes. Hence, agriculture is no longer the land use in the area that it was at one time.

In order to authorize the request, including the variance reducing the minimum distance requirements, yet prevent the commercial characteristics of the contractor's equipment storage buildings and parking facility for commercial vehicles from adversely affecting residents of adjacent residential properties and the value of those properties, it was necessary and appropriate for the Board to impose the conditions of authorization in Case 2867.

From the record of this case, the Board finds that the request is essentially a matter of convenience, and that there is no compelling reason to amend condition 5 as requested.

In fact, it is evident that the conditions of authorization as originally imposed remain necessary and appropriate in order to promote the intent and purpose of the zoning ordinance.

CONCLUSION

Accordingly, the Board hereby denies the request.

July 12, 1991  
Date

JDN/bdc/C3565DEC  
July 11, 1991

John Totura  
John Totura, Chairman