

Tax Map/Block/Parcel  
No. 73-5-204

Building Permit/Zoning  
Certificate No. 91-2373

Case 3607

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

**APPLICANTS:** Alan Whitworth and Margaret Whitworth  
12680 Clarksville Pike  
Clarksville, Maryland 21029

**ATTORNEY:** Clark R. Shaffer, Esquire  
6 North Court Street  
Westminster, Maryland 21157

**REQUEST:** A conditional use for a contractor's equipment and storage yard, and a variance waiving the minimum distance requirements pertaining thereto; or, in the alternative, a request to enlarge and change the nonconforming use

**LOCATION:** 5931 Bartholow Road in Election District 5

**BASES:** Article 12, Section 12.2(a); Article 4, Section 4.12; Article 15, Section 15.5; Article 4, Sections 4.3(a)(1) and 4.3(b); Ordinance 1E (The Carroll County Zoning Ordinance)

**HEARING HELD:** September 24, 1991

The Board of Zoning Appeals heard testimony and received evidence concerning this case September 24, 1991.

The Board visited the site September 18, 1991, prior to the public hearing.

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 authorize the conditional use for the contractor's equipment storage yard and variance waiving the minimum distance requirements pertaining thereto. Accordingly, the alternative request is moot.

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

**FINDINGS OF FACT**

The 1.5087 acre lot is located on the east side of Bartholow Road about 1,700 feet south of Johnsville Road intersection. As portrayed by zoning map 73B, the lot and adjoining properties to the north, east and south are zoned "I-R" Restricted Industrial District. The confronting property on the west side of Bartholow

Road is owned by the county and is zoned "C" Conservation District. The adjoining property to the west of the county's property is zoned "R-20,000" Residence District. As portrayed by the surveyor's plat submitted with this application, the distance between the lot and the "R-20,000" Residence District is less than 90 feet scaled from the northwest corner of the lot to the residence zoning district.

In 1968, the Board conditionally authorized establishment of a public utility building on the property as a conditional use in Case 524. At that time, the property was zoned "R-10,000" Residence District. The use was established shortly thereafter and has continued to the present. In 1977, the property and adjoining properties, as noted above, were rezoned to "I-R" Restricted Industrial District with the adoption of the Comprehensive "Mini" Plan for the Freedom Area and Environs.

The applicant proposes to purchase the property and establish a contractor's equipment storage building and yard for excavating equipment and materials as generally portrayed by Applicants' Exhibit 1.

The land use provisions of the "I-R" Restricted Industrial District are expressed in Article 12 of the zoning ordinance. The use is specifically listed as a conditional use in Section 12.2(a) and is also allowed as a conditional use in accordance Section 12.2(b). Uses specified in subsection (a) of Section 12.2 are subject to minimum distance requirements of 600 feet. As provided in subsection (b), the use would be subject to minimum distance requirements of 400 feet. In either case, the lot is less than the minimum distance required from the "R-20,000" Residence District. In fact, unless the minimum distance requirements are waived, the provisions of the zoning ordinance would prevent use of the property except for uses first allowed in the "B-L" Local Business District and "B-G" General Business District not subject to the minimum distance requirements. Even then, the "B-L" and "B-G" uses are allowed only as conditional uses. Accordingly, waiver of the minimum distance requirement is warranted.

If the use were not permitted as a conditional use in the district, the alternative request to enlarge and change the nonconforming use would be appropriate.

In considering the provisions of Article 17, Section 17.7 of the zoning ordinance as they apply to the conditional use request, the Board finds no indication that establishment of the contractor's equipment storage building and yard, as conditioned below, will unduly affect the adjoining properties or public interests.

As specified in Article 12, Section 12.6, issuance of the required zoning certificate for this use is subject to the

requirements of Article 10, Section 10.4(d) of the zoning ordinance pertaining to site development plans. In addition, the zoning certificate is subject to the requirements of the Carroll County Landscape Manual, and the building permit is subject to the approval of the Carroll County Health Department.

CONCLUSION

The applicant has met his burden of proof for both the conditional use and variance requests. Therefore, the Board hereby authorizes the conditional use and variance, subject to the conditions of authorization imposed below. The conditions are imposed in order to promote the intent and purpose of the zoning ordinance.

1. All contractor's equipment and materials shall be parked or stored within the proposed building or fenced yard.
2. The equipment parked or stored on the premises shall be limited to that owned, leased, or operated by the applicant.
3. The existing macadam paving adjoining the driveway connection to Bartholow Road and in front of the minimum building restriction line shall not be used to park or store contractor's equipment.

Oct. 8 1991  
Date

John Totura  
John Totura, Chairman

JDN/bmh/c3607dec  
October 7, 1991