

Tax Map/Block/Parcel
No. 54-19-107

Building Permit/Zoning
Certificate No. 92-1487

Case 3734

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

APPELLANTS: Joseph P. Nuzzo, Sr. and Margaret A. Nuzzo
2105 Brookmead Court
Reisterstown, Maryland 21136

ATTORNEY: Charles M. Preston, Esquire
188 East Main Street
P.O. Box 389
Westminster, Maryland 21158

APPEAL: An appeal of a Notice of Violation dated April 13, 1992,
pertaining to parking/storage of a septic cleaning truck
contrary to the provisions of Section 5C.3 of the Carroll
County Zoning Ordinance

LOCATION: 2105 Brookmead Court in Election District 4; Brookmead Farms
subdivision, Plat 1 Revised, lot 6 recorded in Carroll County
Plat Records in book 10, page 65

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

HEARING HELD: July 28, 1992

FINDINGS AND CONCLUSION

The Notice of Appeal, testimony and evidence comprising the record of this case are hereby included by reference in this decision. Based on the record, the Board affirmed the appeal, abating the Notice of Violation. The pertinent findings determining the Board's decision include the following facts:

The property is lot 6 of Brookmead Farms subdivision. Mr. Nuzzo has resided there for 15 years. A little more than 4 years ago, Mr. Nuzzo purchased Michael's Septic Service. At that time, he contacted the county regarding parking the truck on the premises and was advised that it would be permissible if the truck were moved daily. Since then Mr. Nuzzo has operated the business and parked the truck in the driveway serving the dwelling.

Mr. Nuzzo, as owner and operator of the septic service, is licensed by the Carroll County Health Department and the Baltimore County Health Department. As a matter of practice, the truck is emptied at a regulated dump site and backflushed prior to being parked on the premises.

The Notice of Violation was issued to Mr. Nuzzo by Zoning Enforcement following receipt of a complaint pertaining to parking/storage of a septic

cleaning truck on the premises of 2105 Brookmead Court contrary to the provisions of Section 5C.3 of the zoning ordinance. The complaint, filed by an adjacent property owner and resident of the subdivision, concerned alleged leaking septage, or septic waste, from the truck when being driven on Brookmead Court. The adjacent residents' distress appears to be with the alleged leakage of septage from the truck onto the paved section of Brookmead Court; not the parking of the truck in Mr. Nuzzo's driveway. Except for the alleged leakage, it is likely that the complaint would not have been filed with Zoning Enforcement.

The land use provisions for the "R-40,000" Residence District are expressed in Article 5C of the zoning ordinance. Section 5C.3, Accessory Uses, reads in relevant part:

Accessory buildings and uses customarily incidental to any principal permitted use or authorized conditional use,....

Article 20, Definitions; Sections 20.01, Accessory Use, and 20.17, Garage, (a) read respectively and in relevant part:

A use of a building, lot, or portion thereof, which is incidental and subordinate to the principal use of the main building or lot.

Garage, residential. An accessory building, portion of a main building, or building attached thereto, used for the storage of private motor vehicles, fifty (50%) percent of which may be for the storage of a commercial vehicle.

The long established policy of the Zoning Administrator has been to allow drivers of commercial vehicles, regardless of the characteristics and uses of the vehicles, to park the vehicles where the drivers reside, presumed as a customary and incidental accessory use to their residence. This policy is consistent with the provisions governing use of residential garages as noted above. Enforcement of the zoning ordinance, as well as the Zoning Administrator's policies, must be uniform and consistent.

The determination that parking of the truck is a violation of the zoning ordinance and issuance of the Notice of Violation are inconsistent with the historical administration of the Zoning Administrator's policy. Neither the record of this case, nor the practice of parking the truck on the premises for four years substantiate undue adverse effects to the residents of adjacent properties, or the values of those properties. If a problem exists, it is not one of land use. Accordingly, the appeal is affirmed.

Aug. 11, 1992
Date

JDN/bdc/C3734DEC
August 11, 1992


John Totura, Chairman