

Tax Map/Block/Parcel  
No. 29-17-244

Building Permit/Zoning  
Certificate No. 96-3885

Case 4193

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND

**APPELLANT:** Robert E. Dougherty, III and Diane L. Dougherty  
2456 Tyrone Road  
Westminster, Maryland 21158

**ATTORNEY:** David K. Bowersox, Esquire  
Hoffman, Comfort, Galloway & Offutt, LLP  
24 North Court Street  
Westminster, Maryland 21157

**PROTESTANT'S  
ATTORNEY:** Paul Starr, Esquire  
147 East Main Street  
Westminster, Maryland 21157

**REQUEST:** An appeal of the December 6, 1996, Notice of  
Violation regarding parking of commercial vehicles  
or in the alternative, a conditional use request  
for parking of commercial vehicles and accessory  
uses

**LOCATION:** 2456 Tyrone Road on property zoned "A"  
Agricultural District in Election District 2

**BASIS:** Article 6, Section 6.3; Article 17, Section 17.2  
and 17.4; Ordinance 1E (The Carroll County Zoning  
Ordinance)

On January 29, 1997, the Board of Zoning Appeals convened to hear Case 4193, advertised as an appeal of the December 6, 1996, Notice of Violation regarding parking of commercial vehicles at 2456 Tyrone Road on property zoned "A" Agricultural by Robert E. Dougherty, III, and Diane L. Dougherty. It became apparent at the inception of the hearing that the applicants had also requested, in the alternative, approval for a conditional use for the parking of commercial vehicles and accessory uses at the above referenced location. As a second item of the application, was not duly advertised, the hearing was continued on the Board's initiative to permit the matter to be advertised properly.

On March 26, 1997, after having duly advertised the requests, the Board held a hearing on the appeal of the December 6, 1996, Notice of Violation regarding parking of commercial vehicles and in the alternative, a conditional use request for the parking of commercial vehicles and accessory uses at 2456 Tyrone Road.

The property consists of 9 acres, more or less, and is owned by Robert E. Dougherty and Diane L. Dougherty. The applicants in this case are Robert E. Dougherty, Jr. and Diane L. Dougherty. The Notice of Violation indicates that the violation consists of parking of commercial vehicles and business related items without obtaining the Board of Zoning Appeals approval contrary to the provisions of Article 6, Section 6.3(x) of the Carroll County Zoning Ordinance. The following are the Board's findings and conclusion.<sup>1</sup>

The Zoning Administrator, George L. Beisser, appeared and testified regarding an investigation which took place on the subject property. Mr. Beisser indicated that on November 17, 1996, an investigation of the subject property revealed the following items located and parked on the premises of 2456 Tyrone Road, Westminster, Maryland to wit: a small tractor/grader, a pickup truck with flatbed and trailer, a one ton truck, a large dumpster and a yellow pickup truck. On December 6, 1996, a Notice of Violation was issued. Mr. Dougherty, Jr., testified that he is a fence contractor and that he utilizes his parent's property to park the vehicles in question. His employees arrive in the morning and park their vehicles. They depart utilizing the company vehicles to proceed to the job site where they work all day returning only to deposit the leftover material and dispose of their trash in the dumpster. They pick up their vehicles at the end of the day and leave the site. The company's name is Carroll County Contractors, Inc. The property at which he resides and operates this business is owned by his parents. He has lived there for 23 years. He has been parking the vehicles and operating the company from the premises for the past four years. The number of vehicles parked on the premises have increased each year since starting the business. He does not desire to increase the number of vehicles that he currently has. He does not start work before 8:00 a.m., Monday through Friday, and 9:00 a.m. on Saturdays. The employees only return to the site at the end of the day. No materials are stockpiled on the site except for some sand, gravel, and some minor leftover materials from the jobs. There is a dumpster on the property which he uses to place the waste from the different job sites at the end of the day. There is very little noise emanating from the use of the property. Currently, he has six vehicles and a tractor in the use of the operation. The vehicles consist of a one ton F350, a 3/4 ton C20, a flatbed C30, a small Toyota pickup truck, a Ford 7000 truck, a Ford 250 pickup truck and a 16 foot trailer. The tractor is used to cut the grass on the property as well as to load materials onto the trucks occasionally. The tractor is sometimes used on the different jobs. It is maintained in a shed on the property.

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<sup>1</sup>The Board extended the time for the written decision pursuant to Section 17.4.10 of the Ordinance.

The applicant also engaged the services of C. Terrence Wittstadt, a certified appraiser with Tri-County Appraisal Services, Inc. Mr. Wittstadt testified that the use proposed at the location proposed would not adversely affect property values of adjacent property owners. In support of his testimony, he presented his sales history outline (Exhibit #7). The Board accepts Mr. Wittstadt's testimony that the use proposed at this location would not adversely affect the property values of the adjoining property owners, nor the subject property.

An adjoining property owner, Mr. William Teves, appeared with counsel in opposition to the request and testified against the application. Mr. Teves was concerned with the noise emanating from the property as well as the diminution of his property value as a result of the use at this location. Mr. Teves had Phyllis Cinquegrani, a licensed real estate agent, to testify on the marketability of Mr. Teve's property. The protestant sought to establish that his property would be less marketable and diminish in value as a result of the use proposed herein. The Board finds that the use proposed at the location proposed will have no greater adverse effects than elsewhere in the agricultural zone. The Board hereby grants the use subject to the following conditions.

1. The use will be limited to the parking of the six commercial vehicles noted above and the tractor.
2. The use may also include seven parking spots for the employees of the business.
3. No commercial use on Sundays.
4. The use is limited to the current property owner.
5. No more than 20 tons of sand may be stored at any one time on the property.
6. Hours of operation may not commence before 8:00 a.m. on Monday through Friday and 9:00 a.m. on Saturday, with no Sunday hours.
7. Landscaping must be installed, to include a double row of staggered, white pines, which must be installed on the two sides of the new lot as depicted on Appellant's Exhibit #2. The sides being the sides closest to Tyrone Road and to Mr. Teves property. The purpose of the landscaping is to dull any noise emanating from the use. Trees must be 5 feet in height. The trees must be installed within 90 days of the approval of this use.

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Board of License Commissioners  
410-857-2094

Board of Zoning Appeals  
410-857-2061

June 9, 1997

David K. Bowersox, Esquire  
Hoffman, Comfort, Galloway & Offutt, LLP  
24 North Court Street  
Westminster, Maryland 21157

Re: Errata To the Board of Zoning Appeals Official Decision in  
Case 4193, Dated May 14, 1997, for Robert E. III, and Diane  
L. Dougherty, 2456 Tyrone Road, Westminster, Maryland 21158

Dear Mr. Bowersox:

1. On page 2 of the decision, Robert E. Dougherty, III, was incorrectly identified as Robert E. Dougherty, Jr.
2. On page 2, Carroll County Contracting, Inc., was incorrectly identified as Carroll County Contractors, Inc.

Kindly note the changes and retain this with the original  
decision for your reference.

Yours very truly,

*Bonnie M. Hann*

Bonnie M. Hann  
Administrative Coordinator

BMH/c41931t.bmh

c: Robert E. Dougherty, III and Diane L. Dougherty  
Robert E. Dougherty, Jr., and Diane L. Dougherty  
Vincent C. & Evelyne E. Boose  
E. Alice Morelock/Dottie M. Waddell  
William R. & Mary Kathleen Teves  
Leonard G. Strickland, Jr./Carolyn L. Lentzner  
Douglas L. Boswell/Brenda A. Bassler  
Paul Starr, Esquire  
OAH Case 4193