

Tax Map/Block/Parcel
No. 59-17-719

Building Permit/Zoning
Certificate No. 03-4365

Case 4899

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

APPELLANT: Roll-Off Express, Inc.
P.O. Box 448
2900 Dede Road
Finksburg, MD 21048

ATTORNEY: Isaac Menasche, Esquire

REQUEST: An appeal of a letter from the Zoning Administrator, dated November 10, 2003, regarding a solid waste transfer station.

LOCATION: The site is located at 2900 Dede Road, Finksburg, MD 21048, on property zoned "I-R" Restricted Industrial District in Election District 4.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-118 (7) and 223-186 A (1)

HEARING HELD: January 28, 2004; Continued February 5, 2004

FINDINGS AND CONCLUSION

On January 28, and February 5, 2004, the Board of Zoning Appeals (the Board) convened to hear an appeal of a letter from the Zoning Administrator, dated November 10, 2003, regarding a solid waste transfer station. Based on the testimony and evidence presented, the Board made the following findings and conclusion:

The Appellant runs an operation on 6.8 acres of the Walnut Park Industrial Park in Finksburg. The Appellant's facility receives and processes industrial and solid waste. Loads of waste are trucked into and dumped at the site. Useable, recyclable material is gleaned from the piles of solid waste and sold or transferred elsewhere for profit. Leftover waste is transferred to a landfill.

Appellant claims he is generating a solid waste processing facility, which needs no further approvals. The Zoning Administrator believes that the Appellant is operating a waste transfer station, which would require a conditional use. Unfortunately, neither "transfer station"

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nor "solid waste transfer facility" is defined in the zoning regulations. However, it is defined in other sections of the County Code dealing with solid waste.

A review of the history of the property follows. In 1994, the Appellant's predecessor inquired of the county Zoning Administrator whether he could operate a facility for the sorting and baling of cardboard in the "IR" zone. In 1994, then Zoning Administrator, Solveig L. Smith, advised Appellant's predecessor that such a use would be legal in the "IR" zone, provided it did not "evolve into a solid waste transfer facility", which would require a conditional use. Appellant's predecessor opened the operation at the referenced site, trading under the name, "Roll Off Express", after this exchange with Zoning Administrator Smith.

Since the opening of the facility, Roll Off Express obtained permits from the Maryland Department of the Environment. As a requirement of the permitting process, the Department of the Environment required assurances that the parcel was properly zoned and that the use was included in the County's Ten-Year Solid Waste Management Plan. In 1997, Zoning Administrator Smith's successor, George Beisser, wrote a letter to the Department of Environment assuring them that "the property is properly zoned for solid waste transfer". A zoning certificate (#97-1647) was issued by the County to operate a solid waste processing facility. The site is referenced in the County's Ten-Year Waste Management Plan as a "privately owned and operated processing facility", and the Appellant or his predecessor issued periodic recycling reports to the County Recycling Office. In addition, in 1997, Zoning Administrator Beisser granted a variance to Roll Off Express from the side yard setbacks, which were encroached upon by a building mistakenly built in the setback area on the site.

Under the circumstances, the Board finds that the County, due to its knowledge of, and acquiescence in the operation over the course of almost a decade, is estopped from requiring that the facility obtain a condition and use as a transfer station. The Appellant operated in good faith and kept the county fully apprised of his operations. In addition, the Appellant relied on the representation of County officials to his detriment in this case. The Appellant is cautioned that this estoppel applies only to the existing operation as described in the first paragraph of this decision. Any change in use or the operation of an actual transfer station (wherein waste is deposited on site to be transferred elsewhere) will require a conditional use.

3-12-04

Date


Jacob M. Yingling, Chairman