

**Tax Map/Block/Parcel
No. 66-9-230 & 114**

**Building Permit/Zoning
Certificate No. 04-3759**

Case 5001

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

APPLICANT: William H., Jr. & Sally J. Barnes
5201 Ridge Road
Mt. Airy, MD 21771

ATTORNEY: Charles M. Preston

REQUEST: An appeal of a decision by the Zoning Administrator concerning the sale of farm fencing and a conditional use for the sale of farm equipment (fencing).

LOCATION: The site is located at 5201 Ridge Road, Mt. Airy, on property zoned "A" Agricultural District in Election District 9.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-71 and 223-186 A (2)

HEARING HELD: January 25, & March 3, 2005

FINDINGS AND CONCLUSION

On January 25 and March 3, 2005, the Board of Zoning Appeals (the Board) convened to hear an appeal of a decision by the Zoning Administrator concerning the sale of farm fencing and a conditional use request for the sale of farm equipment (fencing). The Board made the following findings and conclusion:

The subject property is 48.89 acres of farmland south of Gillis Road and north of Gillis Falls Road on Route 27 north of Mt. Airy. The landowner resides in a house on the property. The parcel is zoned "A" Agricultural.

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The first issue was an appeal from the Zoning Administrator's determination that the landowner's sale of fence materials and pressure treated lumber was neither a valid accessory use nor an incidental farm occupation. The landowner has sold lumber and supplies for fencing for many years at this location, although not since before the adoption of County zoning in 1965. The items for sale include posts, boards, gates and nails. The items are mostly stored and sold outside, and are sold to, among others, area farmers. We find that, although fences are commonly used on farms, the storage and retail sale of fence materials is not customarily incidental to the primary permitted use on the parcel, namely farming. There was no testimony that the lumber and material sales were in any way dependent upon or pertinent to the farming operation. In addition, there was no evidence presented that fence lumber is commonly sold to the general public from farmsteads. Accordingly, we uphold the determination of the Zoning Administrator and find that fence lumber and associated material sales are neither accessory to or customarily incidental to farms.

The second issue was whether the landowner should be granted a conditional use for the sale of farm equipment, namely fencing materials. The Board heard from a licensed Maryland appraiser that the proposed use here will not adversely affect neighboring property values. In addition, the Board received into evidence a letter from a traffic engineering firm opining that the fence material sales at this site will generate 2 to 4 average trips per day, which would have no discernable effect on the supporting road system.

Based upon all of the evidence presented, we find that the sale of wood fence posts and wood fencing materials, at this location will not generate adverse effects above and beyond those normally associated with such a use. Accordingly, the conditional use request is granted, with conditions to follow.

As to the location of the sale area, the Board was presented with two options (Appellant's Exhibit 4). We find that the area labeled "Proposed Storage Site 2" delineated in Orange will not require the grant of a variance. However, the area delineated in Green labeled "Proposed Storage Site 1" will require that the landowner obtain a variance from the applicable 400 foot setback requirements of our Code. Since a variance was not requested, the Board is not able to grant one as a part of this proceeding.

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The Board imposed the following conditions:

1. Any expansion of the wood fencing material business would require Board approval.
2. Questions pertaining to the existing driveway, parking, and sight distance must be addressed to the satisfaction of the Maryland State Highway Administration.
3. The use is non-transferable.
4. A simplified site plan which also addresses signage must be submitted within 60 days of the date of the written decision or within 30 days of the grant of any requisite variance, whichever is later.

4/01/05

Date

Jacob M. Yingling
Jacob M. Yingling, Chairman