

Tax Map/Block/Parcel
No. 74-7-447

Building Permit/Zoning
Certificate No. 05-3561

Case 5148

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

APPELLANT: Llee Limited Liability Partnership
5603 Emory Road
Upperco, MD 21155-9758

ATTORNEY: Richard R. Titus

REQUEST: An appeal of a Notice of Violation from the Zoning Administrator regarding a solid waste truck service and parking operation and, in the alternative, a conditional use request for parking of commercial vehicles*.

LOCATION: The site is located at 1918 Liberty Road, Sykesville, on property zoned "B-G & R-20,000" General Business and Residential District in Election District 5.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-71 A (23), 223-100 A, 223-109 E and 223-186 A (2)

HEARING HELD: January 3 & 25, 2006

FINDINGS AND CONCLUSION

On January 3 & 25, 2006, the Board of Zoning Appeals (the Board) convened to hear an appeal of a Notice of Violation from the Zoning Administrator regarding a solid waste truck service and parking operation and, in the alternative, a conditional use request for parking of commercial vehicles*. Based on the evidence and testimony presented, the Board made the following findings and conclusion:

The subject property is a "split-zoned" parcel with "B-G" (General Business) and "R-20,000" (Residential) zoning. The use which led to the issuance of the Notice of Violation is occurring on the "B-G" zoned section.

The Appellant is leasing the property to Waste Services of Maryland, Inc. and Waste Services of Carroll County, Inc. These companies are engaged in the trash hauling and collection business. They park their trucks on the site and perform minor maintenance on the trucks. There are presently three trucks stored there, which leave the site between 4:00 a.m. and 5:00 a.m. and return by 4:00 p.m. After they have returned, the trucks are parked on the site until the next morning.

* Request withdrawn January 25, 2006, by the Appellant.

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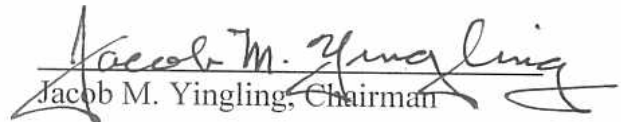
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The question before the Board was whether this use constitutes the parking of commercial vehicles, which would necessitate conditional use approval under Section 223-100-109 (E) of the Code, or whether the use is a "truck or motor freight terminal", which is a principal permitted use in the "B-G" zone. "Truck or motor freight terminal" is not defined in the Code. "Commercial Vehicle" is defined in another section (223-30.3) as "a motorized vehicle of 10,000 pounds or more gross vehicle weight or capability, a trailer capable of gross vehicle weight of 10,000 pounds or more or a trailer which may be used for commercial purposes." It is undisputed that the Appellant's trash trucks constitute "commercial vehicles" under this definition.

In the absence of a definition of "truck terminal", Appellant urges us to use the expansive definition of truck terminal set forth in Baltimore County's zoning law. They define the term to include any "land devoted primarily to the transfer of merchandise from one truck trailer to another or devoted to the lay-over parking of trucks or trailers...". We decline to rely on their definition. We interpret the term "truck terminal" in context with the rest of the Zoning Code, and give the term its ordinary accepted meaning. We have previously interpreted "truck terminal" as a use where trucks meet and transfer goods to each other for shipment to other places (See Zoning Administrator Exhibit #1). Where commercial vehicles are simply parked and not loaded or emptied, they fall under our regulation governing the "parking of commercial vehicles". Otherwise, any location where commercial vehicles are parked (including some residences) could be classified as a truck terminal under Appellant's reasoning.

We determine that Appellant's use does not constitute a truck terminal, as there is no loading or unloading of freight occurring at the site. Accordingly, the Appellant must obtain a conditional use for the parking of commercial vehicles for the current use, and the Zoning Administrator's Notice of Violation is upheld.

Date 2/02/06


Jacob M. Yingling, Chairman