

Tax Map/Block/Parcel  
No. 30-12-514  
Case 5290

1

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

**APPLICANT:** Ronald S. Smith.  
555 Belmont Road  
Gettysburg, PA 17325

**ATTORNEY:** Charles Michael Preston

**REQUEST:** An expansion/change of a non-conforming use from an existing pesticide controller's operation to a fencing contractor and/or water treatment and conditioning equipment supplier together with an expansion of the number of trucks from six (6)<sup>1</sup> to ten (10) and the construction of an additional service building approximately 48 ft. x 90 ft.<sup>2</sup> on the premises.

**LOCATION:** The site is located at 2138 Littlestown Pike, Westminster, on property zoned "A" Agricultural District in Election District 7.

**BASIS:** Code of Public Local Laws and Ordinances, Section 223-9 A (1) and B

**HEARING HELD:** December 28, 2006 and March 1, 2007

**FINDINGS AND CONCLUSION**

On December 28, 2006 and March 1, 2007, the Board of Zoning Appeals (the Board) convened to hear a request for an expansion/change of a non-conforming use from an existing pesticide controller's operation to a fencing contractor and/or water treatment and conditioning equipment supplier together with an expansion of the number of trucks from six (6) to ten (10) and the construction of an additional service building approximately 48 ft. x 90 ft. on the premises. The Board made the following findings and conclusion:

The Applicant wishes to change the current use of the property to a business involved in the sale and installation of residential water treatment products and systems. In addition, the Applicant hopes to operate a fence business on the site. The house would be occupied by a tenant, hopefully a family member. The two businesses would employ 20 persons, including the Applicant. There would be a staff of 3 stationed at the property in one of the outbuildings. In addition, the Applicant will construct a new 48 ft x 90 ft building on the premises. The new building would serve as a warehouse. There will be small truck deliveries once a week for the fence business and parcel deliveries for both businesses 4 or 5 times a week. There will be 10

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<sup>1</sup> The number of trucks was amended at the hearing from four to six.

<sup>2</sup> The size of the building was amended at the hearing to 48 ft. to 90 ft.

**OFFICIAL DECISION**  
**C5290**  
**PAGE TWO**

trucks parked there on a constant basis. Employees will come and go from the site for the two businesses.

Non-conforming uses are regulated by §223-9 of the Code. Specifically, this case is governed by §223-9 (B), which provides that, "(i)f no structural alterations are made, a nonconforming use of a building, structure, or premises may, with approval of the Board, be changed to another nonconforming use which in the opinion of the Board is of the same or a more appropriate use of classification." In addition, § 223-9 (C) provides that "(w)henever a nonconforming use has been changed to a more appropriate use in the opinion of the Board, such use shall not thereafter be changed to a less appropriate use or classification."

In this case, the Board finds that what is being proposed is a less appropriate use for this location. Our conclusion is based on the greater intensity of the proposed use. The new use has more employees and four more trucks that would be permanently stationed there. In addition, it would require a 4,300 (+) sq. ft. building; and there would be not one but two businesses operating there. Three new staff members would constantly be on the site. What is being proposed would involve a substantial increase in activity at the site, including truck traffic for employees and deliveries. In addition, the Board notes that the current business operation at the property has declined significantly over the past few years. Granting the proposed use would therefore be inconsistent with our authority set forth in §223-9 (C). Accordingly, the request for expansion/change or nonconforming use is **Denied**.

3/21/07  
Date

  
Jacob M. Yingling, Chairman