

**Tax Map/Block/Parcel
No. 53-4-48**

Case 5410

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

APPLICANT: Betty H. Shamer, et al
c/o Carlton Shamer, Jr.
2710 Patapsco Road
Finksburg, MD 21048

ATTORNEY: Clark R. Shaffer

REQUEST: A confirmation of non-conforming use to allow the parking and storage of commercial and other vehicles and items and materials on the portion of property adjacent to Patapsco Road.

LOCATION: The site is located at 2710 Patapsco Road, Finksburg, on property zoned "C" Conservation District in Election District 4.

BASIS: Code of Public Local Laws and Ordinances, Section 223-9

HEARING HELD: May 28 & August 21, 2008

FINDINGS AND CONCLUSION

On May 28 & August 21, 2008, the Board of Zoning Appeals (the Board) convened to hear a request for a confirmation of non-conforming use to allow the parking and storage of commercial and other vehicles and items and materials on the portion of property adjacent to Patapsco Road. The Board made the following findings and conclusion. The Board incorporated into evidence the testimony and evidence presented in Cases 5410 and 5411.

The Applicant has alleged that the property across from the residence at 2710 Patapsco Road which abuts the stream, has acquired the status of a nonconforming use for the parking and storage of commercial vehicles and other vehicles and items. The Applicant presented the testimony of Lee Ruby, who told the Board he had seen the area used for the parking of at least two trucks since 1964. Walter Shauermann testified that he had observed trucks, equipment, retail parts, and broken concrete pieces on the site since 1974. James Schooligan testified that he recalled travelling Patapsco Road from the late fifties and that there had always been trucks or farm equipment stored on the property. Carlton Shamer, the Applicant's son, testified that his father had used the property since the early sixties to store vehicles, scrap metals, firewood, and farm equipment. He presented photographs of the property taken in the early to mid sixties showing vehicles being stored on the property. Wilfred Hoff testified that the property had been continuously used since the late fifties to store trucks, farm equipment, trailers and tow trucks, and that 3 to 4 vehicles were consistently parked there.

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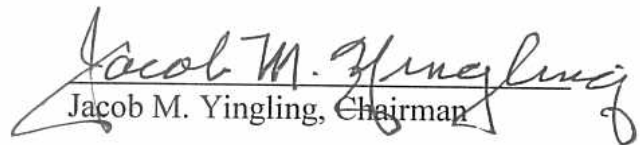
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Mrs. Betty Shamer testified that she and her late husband purchased 2710 Patapsco Road in 1960. She further stated that the property was already being used for the parking of commercial vehicles when they purchased it, and that her husband stored trucks and vehicles on the property. Occasionally, junk was placed there by persons to be taken to the junkyard also owned by the Shamers located on Patapsco Road. She presented photographs from 1960-1961 to the Board showing the area being used as a commercial vehicle park area.

The Board found these witnesses to be credible and persuasive of the fact that the property has been consistently used for the parking of commercial vehicles since at least the early sixties and prior to the adoption of the Zoning Code. The area used for this purpose has not expanded to any substantial degree, and cannot expand further due to the existence of the stream, utility pole, and the current width of Patapsco Road. There is no basis for the Board to limit the number of vehicles. However, the Board was not persuaded that this area was a non-conforming dumping ground. While evidence of occasional dumping or storage of junk was presented, it did not amount to a consistent use of the property in such a manner since 1965. The area was therefore not approved as a collection site for junk. The Board recognized that items and machinery associated with the operation of commercial vehicles have been stored there since prior to 1965. Accordingly, the Board approved the use of the property as depicted in Exhibit No. 1 as a nonconforming parking area for the storage of commercial vehicles and items associated with the use and maintenance of these vehicles.

9/17/08
Date


Jacob M. Yingling, Chairman