

**Tax Map/Block/Parcel  
No. 76-11-220**

**Case 5510**

**OFFICIAL DECISION – AMENDED\*<sup>1</sup>  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND**

**APPLICANT:** Mark L. Messick  
2480 Flag Marsh Road  
Mt. Airy, Maryland 21771

**ATTORNEY:** n/a

**REQUEST:** A conditional use for a contractor’s equipment storage area and a variance from the distance requirements of 400 ft. to 5 ft. from the property line.

**LOCATION:** The site is located at 2480 Flag Marsh Road, Mt. Airy, MD 21771, on property zoned “A” Agricultural District in Election District 13.

**BASIS:** Code of Public Local Laws and Ordinances, Section 223-71 (5) and 223-16

**HEARING HELD:** August 25, 2009

**FINDINGS AND CONCLUSION**

On August 25, 2009, the Board of Zoning Appeals (the Board) convened to hear a conditional use request for a contractor’s equipment storage area and a variance from the distance requirements of 400 ft. to 5 ft. from the property line. Based on the testimony and evidence presented, the Board made the following findings and conclusion:

The Applicant has resided on this 3 acre (+/-) lot in the Agricultural Zone for 15 years. He owns and operates a landscaping/lawn care company, which is located at the rear of this property. The number of employees varies from five to seven. The Applicant constructed a building and an addition as part of the landscaping business.

The Applicant receives 2 to 3 tractor trailer deliveries of landscaping materials throughout the year. The materials include sand, stone and mulch which are stored at the site.

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<sup>1</sup> This decision was amended to incorporate conditions which should have been delineated in the original decision dated September 16, 2009, which is now superseded.

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The commercial equipment and materials stored at the rear of the property includes, but is not limited to, trailers, trucks, 1 portable toilet, 2 skid loaders with attachments, ladders, a wood chipper, landscaping materials and a fuel tank. In accordance with Carroll County Public Local Laws and Ordinances, § 223-71 (A) (5), the equipment and materials must be kept in an area not exceeding 1 acre of the property.

A neighbor objected to noise and dust from the Applicant's use of stone cutting equipment. The Applicant testified that this equipment was used primarily to construct a stone wall at his residence. In addition, the neighbor was concerned about the speed of vehicles entering and leaving the Applicant's property.

The lot is long and thin, and resembles a rectangle. In addition, the residence and well are located at the front of the property abutting Flag Marsh Road. A long driveway connects the road to the contractor's equipment yard.

Based on the unique shape of the lot, and the layout of the buildings and well on the property, the Board found that there is no other feasible location on the lot for the requested use. In addition, the rear of the property is ideal for the storage yard, and is less intrusive to the neighborhood. As such, a strict application of the distance requirements to this property would result in practical difficulty and undue hardship, and a variance was granted.

In addition, the Board found that, with certain conditions, the contractor's equipment storage yard would not generate adverse effects (i.e. noise, traffic, dust, fumes) greater here than elsewhere in the Agricultural zone. Accordingly, the conditional use was granted, subject to the following conditions:

1. All commercial activity, including the storage of commercial vehicles, equipment and materials, must be confined to a 1 acre portion of the property; namely the rear 1/3 of the lot.
2. \*Deliveries to the storage yard may be received only between the hours of 8:00 a.m. to 5:00 p.m.
3. Applicant shall take steps to ensure that employees and delivery trucks reduce their vehicle speed when arriving and departing the property.
4. All employees shall park in the rear of the property.

*October 16, 2009*  
Date

*Charles H. Wheatley, III, Chair*  
Charles H. Wheatley, III, Chair