

Tax Map/Block/Parcel
No. 72-18-57
Case 6020

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Michael G. and Eleanor I. Fulton
133 White Way
Sykesville, MD 21784

ATTORNEY: Kelly J. Shaffer, Esq.
73 East Main Street
Westminster, MD 21157

REQUEST: A request for a conditional use for a contractor's equipment storage yard and variances to three adjacent properties.

LOCATION: The site is located at 133 White Way, Sykesville, Maryland, on property zoned "A" Agricultural District in Election District 14.

BASIS: Code of Public Local Laws and Ordinances, Sections 158.070(E)(1)(c) and 158.040.

HEARING HELD: May 30, 2017

FINDINGS AND CONCLUSION

On May 30, 2017, the Board of Zoning Appeals (the Board) convened to hear the request for a conditional use for a contractor's equipment storage yard and variances to three adjacent properties. Based on the testimony and evidence presented, the Board made the following findings and conclusions.

The applicant stated that he moved to Carroll County in approximately 2008. Since he purchased the property he put up the fencing for the horses. He has been self-employed for most of his adult life. His work is in landscaping, grading, and excavation. He generally would work for certain general contractors. In the past he has dug basements as part of his work. He has also performed work for parks and schools. Most of the equipment and vehicles owned by Mr. Fulton are included in Exhibit 2. A lot of this equipment was not on the site during the site visit. The majority of the equipment moves from job site to job site. It is not profitable or cost effective to bring the equipment home between jobs. For example, his two dump trucks have been on the property maybe ten times. Mr. Fulton would have two full time employees. One of the employees lives in Pennsylvania and drives a company vehicle. He also has two part time employees. He would typically leave and go to a job site in the morning and return home in the afternoon. He would not have signage for his business on the site. Rarely would a customer come to the site. The main reason for the contractor's equipment storage yard is that he needs to

keep his vehicles and equipment inside of a structure. There is a pond located on the property. There are also slopes near the location for the proposed contractor's equipment storage yard.

As a result of a conversation that he had with Mr. Gary McGinnis, he agreed to address the site distance in an approximate forty foot area. He would put up some fencing and trees.

Martin W. Hackett is the president of CLSI. He was accepted as a person with experience in land use design. He prepared the drawing to accompany the application. There is a stream on the site where the contractor's equipment storage yard would be located. There is also a pond. There are power lines on the north side of the property line. There is a large area of the property where, because of the topography and drainage, a structure could not be placed on it. The shape and size of the parcel was unique for the area. There are steep slopes on the property. One example of the steep slopes can be seen in Exhibit 3C. On one end of the property only, the green roof with a flag can be seen on another part of the property, which is one location for the contractor's equipment storage yard.

A number of witnesses briefly testified in support of the application. Those witnesses included: Stephen Fulton, Andrew Pahl, Mark Pahl, Ray Baccala, Terry Zittle, Eleanor Fulton, Alex Fulton, Trevor Colby, James Moore, and Jill Moore.

There are a number of letters in the case file of people who support the application: Catherine N. Pape, Mark Scanga and Debbie Prince, Melanie Rolfes, Terry Zittle, William Blair, Mark Pahl, Andrew Pahl, Joanna Pahl, John W. Schabe, Tom Thorpe, Charles Bradford, Jr., Paul Larson, Barbara Larson, and Raymond R. Baccala. All but one of the letters state that the Fultons are good neighbors and that they supported the application.

Gary McGinnis is a neighbor of the Fultons. He shares a property line with him. He stated that Mr. Fulton was a great neighbor. He did not want a more extensive use of the property. Mr. McGinnis still owns a rental property near the site of the proposed contractor's equipment storage yard.

A May 12, 2017 memorandum from Lynda Eisenberg, Chief, Bureau of Comprehensive Planning and Clare Stewart, Planning Technician, states that the subject property has a land use designation of agricultural. The staff finding is that this request is consistent with the 2014 Carroll County Master Plan and the 2001 Freedom Community Comprehensive Plan and would not have an adverse effect on the current use of the property or its environs.

The Board found that the fact that so many neighbors showed up to testify in support of the proposal was noteworthy. Even Mr. McGinnis, who had some issues with the project, stated that Mr. Fulton was a great neighbor. The Board found Mr. Hackett's testimony about the use and the variances to be strong and credible. The Board accepted his testimony about the uniqueness of the property. The Board also found that the use as a contractor's equipment storage yard was minimal. There is a stream on the site where the contractor's equipment storage yard would be located. There are power lines on the north side of the property line. There is a large area of the property where, because of the topography and drainage, a structure could not be placed on it. The applicant has two full time employees and two part time employees. All of these four employees would not come to the site on a daily basis. He would not have signage for his business on the site. Rarely would a customer come to the site. The main reason for the contractor's equipment storage yard is that Mr. Fulton would like to keep his vehicles and equipment inside of a structure.

The Board was convinced that authorization of the request with regard to a conditional use was consistent with the purpose of the zoning ordinance, appropriate in light of the factors to be considered regarding conditional uses of the zoning ordinance, and would not unduly affect the residents of adjacent properties, the values of those properties, or public interests. Based on

the findings of fact made by the Board above, the Board found that the proposed project would not generate adverse effects (i.e. noise, traffic, dust, water issues, lighting issues, property depreciation, etc.) greater here than elsewhere in the zone. The Board approved the conditional use requested by the applicant. The Board also approved the requested variances.

June 1, 2017
Date

Melvin E. Baile, Jr.
Melvin E. Baile, Jr., Chairman

Decisions of the Board of Zoning Appeals may be appealed to the Circuit Court for Carroll County within 30 days of the date of the decision pursuant to Land Use Article, Section 4-401 of the Annotated Code of Maryland.

Pursuant to Section 158.133 (H)(3) of the County Code, this approval will become void unless all applicable requirements of this section are met. Contact the Office of Zoning Administration at 410-386-2980 for specific compliance instructions.