

Tax Map/Block/Parcel
No. 77-22-427
Case 6019

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Jason E. Mabe
7891 Old Washington Road
Woodbine, MD 21797

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 7891 Old Washington Road, Woodbine, 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.

Jason Mabe testified as the applicant in this case. He is and was an electrical contractor for many years. He used to be a full time electrical contractor. During his years as an electrical contractor, he accumulated many pieces of equipment that were used on earlier projects. Some of the equipment was expensive but had uses that were not consistent with most of his work. He did not want to discard this expensive equipment without adequate compensation. He now has another full time job with Chesapeake Urology but continues to have a side job as an electrical contractor. He has always kept his masters license as an electrician because he has always used it for his electrical work. Although he does not use all of the equipment that he stores, he does want to maintain it. Although some equipment is unused for some time, it still could have value to someone in need of such equipment.

He stated that the building he wanted to construct was predominantly for storage. There was no other location on the site for the contractor's equipment storage yard. The building

would replace the trailer that Board members would have seen during the site visit. The items in the dilapidated trailer were placed in the sea containers and a truck. These items would be placed in the building to be constructed. He would have two employees for the side business. He would not have anything shipped to the site. He would not conduct business at the site. He stated that he could not place the new building anywhere else on the property. CLSI is in the process of surveying the stream area and would comply with the requirements of Resource Management. He stated that he would comply with the requirements for water resources and forestation. He also stated that there had been no electricity at the site for fifteen years. He also testified that he never had a mulch operation.

Martin W. Hackett is the president of CLSI. He was accepted as a person with experience in land use design. The property is located near properties that make up the largest General Industrial District (IG) zone in the County. The purple areas in Exhibit 1 represent the industrial complex about which he testified. The property is located in a wooded area. Many industrial uses also utilize Maryland Route 97. A fifty foot wide pipe with Colonial Pipeline runs through the property as noted in the CLSI plan in the file entered into evidence. No location on the site would meet all of the setbacks.

Mr. Hackett was contracted by the applicant to assist him with getting into compliance with the Bureau of Resource Management. The Bureau of Resource Management had issues with noncompliance on the property as set forth in a February 13, 2017 letter, and two May 8, 2017 letters. The violations related to forest conservation, soil conservation, and water resource protection. He set forth the water resources protection easement in Exhibit 3. He noted that he was working on the forest stand delineation and forest conservation plan. Mr. Hackett testified that the intensity for the business would be minimal. He further provided testimony about the uniqueness of the property. He also explained the reasons for the variances being requested.

Stephanie Reid testified in opposition to the application. She is a nurse who has been a resident for thirty-nine years. She stated that she and her husband had lodged two complaints with the county. She had heard a type of shredding or mulching noise coming from the direction of the applicant's property. She heard loud noises coming from the site as early as 6:30 a.m. Such noises were disturbing to her at the early hour. She also heard the same noises during the day time. Ms. Reid heard shredding sounds like a mulcher makes. The noises would last from thirty to forty-five minutes at a time. She stated that she did not hear noises coming from across Maryland Route 97. She stated that there were spotlights on the property. She never got close enough on the applicant's property to determine where the noise was coming from. Ms. Reid believed that the applicant was actually performing more work than he testified about.

Gale Engles testified as the Bureau Chief of Resource Management. The Bureau of Resource Management had issues with noncompliance on the property as set forth in a February 13, 2017 letter, and two May 8, 2017 letters. She stated that the applicant applied for a building permit on February 10, 2017. She mentioned that one May 8th letter gave the applicant until June 15, 2017 to submit a forest stand delineation and forest conservation plan. As of the hearing she had not received a response from CLSI or Mr. Mabe about the letters or the deadlines. She added that she would not sign off on the building permit until her issues were addressed. The photographs of Resource Management Exhibits 1 through 4 were admitted into evidence.

Pat Varga stated that he and Tracy Eberhard inspected the site. They paced off where some things would be located on the site. The exact lines for the site were uncertain due to the

uneven terrain. Various items were pointed out to the applicant about three sections of the Water Resources Protection Deed as set forth in the May 8, 2017, letter.

A May 12 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 the Carroll County Water and Sewer Master Plan and would not have an adverse effect on the current use of the property or its surrounding environs.

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 found that the use would be mainly for storage and that the use would not be intense. The Board approved the use for a contractor's equipment storage yard on the condition that the applicant complied with the issues brought up by the Bureau of Resource Management. The Board found that the use described by Mr. Mabe was not an intensive one. Mr. Mabe would have two employees for the side business. He would not have anything shipped to the site. He would not conduct business at the site. His employees would usually travel directly to the site of the project and not the proposed site. The Board accepted that the site would be used predominantly for storage.

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.