

**Tax Map/Block/Parcel
No. 58-24-158
Case 5958**

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

APPLICANT: James D. Nightingale
3300 Black Steer Drive
Finksburg, MD 21048

ATTORNEY: N/A

REQUEST: A request for a conditional use for a Contractor's Equipment Storage Yard and a conditional use for a Shop for the sale and repair of farm equipment and machinery, including welding, and variances for both uses.

LOCATION: The site is located at 3300 Black Steer Drive, Finksburg, Maryland on property zoned "A" Agricultural District, in Election District 4.

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

HEARING HELD: July 26, 2016

FINDINGS AND CONCLUSION

On July 26, 2016, the Board of Zoning Appeals (the Board) convened to hear the request for a conditional use for a Contractor's Equipment Storage Yard and a conditional use for a Shop for the sale and repair of farm equipment and machinery, including welding, and variances for both uses. Based on the testimony and evidence presented, the Board made the following findings and conclusions.

Jay Voight testified that a complaint was lodged with the Zoning Office. Mr. Voight was aware that Mr. Nightingale had a paving business at one time. He was also aware that the applicant had a welding business for years. There was a welding shop on the site. He was also aware that the applicant had some type of construction business for years. When the investigation occurred for the complaint, Mr. Voight could not determine whether there were any specific approvals for the applicant's current uses on the property. He therefore recommended to the applicant to obtain approval before the Board.

James Nightingale testified in favor of the application. When he bought the farm in 1994 he spoke to someone in the Zoning Office. He continued the operations that were being conducted on the farm with the belief that all was well unless there was a complaint. He described the structures on the farm when he first purchased it. The property included a welding

shop, barns, and chicken houses. He owned the property for about twenty-three years before the first complaint was lodged in 2016. He originally bought the property because it included the use of a welding operation, a contractor's equipment storage yard, and the sale and repair of farm equipment and machinery. He lived near the property while he was a child and all of the uses back then continued in operation with him as the owner.

Daniel E. Dutterer testified in favor of the application. His driveway was directly across from the entrance to the farm. He moved to his property in 2000. He has never had any issues concerning traffic with the applicant. He stated that the property was a working farm. Both he and his wife were in full support of the requested variances. He stated that every vehicle that comes to the applicant's property comes right past his property. He stated that Mr. Nightingale was a good neighbor and that he ensured that the roads were passable.

Dave Brauning testified in favor of the application. He described a history of the property. He stated that the zoning code was created in 1965. The zoning code came from various committees that made recommendations for each district. He stated that in the 1930s there was a blacksmith shop on the property. The blacksmith shop was followed by a welding shop. Ever since the welding shop was on the property there has been a contractor's equipment storage yard on the property too. The welding shop has been on the property since 1957. Farms have equipment that needs to be repaired and that is one of the reasons a welding shop would be necessary. He stated that a prior owner of the property had a contract with Carroll County Government to perform work on roads. Therefore, he kept contractor's equipment on the property. The uses on the property preexisted the County's zoning ordinance.

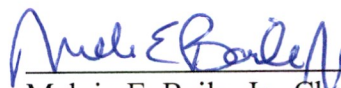
Nokomis Ford with the Bureau of Comprehensive Planning wrote in a July 18, 2016 memorandum that the "staff finding is that this request is consistent with the 2014 Carroll County Master Plan and would not have an adverse effect on the current use of the property or its environs." She also noted that the Planning staff did not perceive that the proposed use for this Contractor's Equipment Storage Yard and service and repair shop will have a major impact on traffic.

The Board recognized that the existing uses on the property had been occurring for years before the zoning ordinance came into effect. No one at the hearing objected to the proposed uses.

The Board was convinced that authorization of the request with regard to the request for a Contractor's Equipment Storage Yard and a Shop for the sale and repair of farm equipment and machinery, including welding 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 variance.

7-29-2016

Date



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.

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