

Tax Map/Block/Parcel
No. 72-20-312
Case 5568

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Gerald and Martha Boyer
1668 Calico Drive
Woodbine, Maryland 21797

ATTORNEY: N/A

REQUEST: An application for a conditional use for a contractor's equipment storage facility and a variance from the distance requirements.

LOCATION: The site is located at 1668 Calico Drive, Woodbine, MD 21797, on property zoned "A" Agricultural District in Election District 14.

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

HEARING HELD: October 26, 2010

FINDINGS AND CONCLUSION

On October 26, 2010, the Board of Zoning Appeals (the Board) convened to hear the request for a conditional use for a contractor's equipment storage facility and a variance from the distance requirements. Based on the testimony and evidence presented, the Board made the following findings and conclusion:

The Applicants reside on 35.5 acres (+/-) in the Agricultural zone. They have owned this property for ten years. The Applicants operate a heating, ventilation, and air conditioning (HVAC) business. They began using a portion of the 3,200 square foot (+/-) barn on the property for the storage of excess tools and materials associated with the HVAC business in 2002. The materials include recycled components, job site tools, ladders, metal work leftovers, scrap HVAC units, and similar items. Approximately 1,000 square feet of this barn is used for the business. The rest of the barn is used for the storage of materials and equipment used on the property. No HVAC materials are stored outside the barn. Approximately 90% of the Applicants' business is conducted outside the County. Deliveries of the HVAC materials are usually received directly at the job site, rather than this property. Any deliveries made to this property arrive by pickup truck. Employees of the HVAC business rarely visit this property. The property is served by a 12 foot use-in-common driveway, which is shared with six other residences. Traffic to and from this property as a result of this business is minimal, as the work performed by the business occurs off site. Several neighbors testified persuasively that there is little or no traffic on this lane, and that the HVAC business is in no way disruptive to the neighborhood. Conversely, the closest neighbor testified to the Board that HVAC service trucks, cars, and pickup trucks frequently travelled to and from the Applicants' property. He complained to the Board about noise from the Applicants' barn early in the morning which

OFFICIAL DECISION

Case 5568

Page 2

disrupted his peace and quiet. He stated further that he has seen tractor trailers coming to and from the Applicants' property, resulting in ruts in his yard.

The Board found, based on the testimony of the three neighbors on Calico Drive, that traffic and noise generated by this use are insignificant. The neighbors testified credibly that the Applicants' business is not disruptive to the neighborhood, and that the Applicants are good neighbors. Employees rarely visit the property. The concerns raised by the nearest neighbor regarding traffic do not ring true to the Board, and his concern regarding early morning noise from the Applicants' use can be addressed by the imposition of appropriate conditions. In short, any traffic, noise, dust, fumes, gases, vibrations or similar disruptions from this use are typical to any neighborhood and are no greater here than anywhere else in the Agricultural zone. Furthermore, there was no evidence of any decreased property values resulting from this use presented to the Board. As such, a conditional use for a contractor's equipment yard at 1668 Calico Drive was granted, with the following conditions:

1. Hours of operation shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday.
2. The conditional use is non-transferrable and this approval is granted to the Applicants only. This condition was agreed to by the Applicants at the hearing.

Turning to the variance request, the Board found that the Applicants had not met their burden. The property is large (35 acres +/-). Although the existing barn on the property is a convenient place to store the Applicants' tools and equipment, there was no evidence of any unique physical conditions on the 35 acre property (such as topography, shape, or environmental features) which would justify a relaxation of the distance requirements. Any hardship in this case resulting from a denial of the variance is self inflicted. Clearly, there were locations at 1668 Calico Drive where the placement of a contractor's equipment storage facility would meet all setbacks and other zoning restrictions. Accordingly, the variance request was denied.

17 November 2010

Date

Howard B. Kramer

Howard B. Kramer, Chairman

Y:\BZA\Cases\5568\c5568decision.doc

Pursuant to Section 223-192C of the County Code, this approval will become void within 1 year from the date of this decision unless the use or variance is implemented. Please contact the Zoning Administrator at (410) 386-2980 to obtain a zoning certificate.

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 Article 66B, Section 4.08 of the Annotated Code of Maryland Rules of Procedure.