

**Tax Map/Block/Parcel
No. 57-16-340**

Case 5384

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

APPLICANT: Charles T. Coon
c/o My Elysium, LLC
1828 West Liberty Road
Westminster, MD 21157

ATTORNEY: Isaac Menasche

REQUEST: To substitute a non-conforming use from a commercial mulch operation approved in Case 5073 to a facility for the maintenance of storage containers and parking of vehicles.

LOCATION: The site is located at 3030 Salem Bottom Road, Westminster, on property zoned "A & C" Agricultural & Conservation Districts in Election District 9.

BASIS: Code of Public Local Laws and Ordinances, Section 223-9 (B)

HEARING HELD: January 24, 2008

FINDINGS AND CONCLUSION

On January 24, 2008, the Board of Zoning Appeals (the Board) convened to hear a request to substitute a non-conforming use from a commercial mulch operation approved in Case 5073 to a facility for the placement of storage containers and parking of vehicles. The Board made the following Findings and Conclusion:

The subject property was formerly used as a sawmill and wood pallet operation. At its peak, the operation churned out 3,500 to 4,500 pallets per day and had up to 30 employees. Between 25-30 tractor trailers came and went from the site per week, carrying raw wood in and pallets and sawdust away. In addition, the site housed wood chippers, 4 to 5 forklifts, 2 loaders, a yard truck and a tractor for use in the sawmill operation.

In Case No. 5073, which was the result of a remand from the Circuit Court, the Board approved, with conditions, the substitution of a commercial mulch manufacturing operation on the site. The Circuit Court had concluded as a matter of law the proposed mulch operation was of the same or a more appropriate use at the site in accordance with Section 223-9 (B) of the Zoning Code.

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The Applicant now wishes to substitute another use for the proposed mulch operation. Specifically, the Applicant wishes to place dumpsters and storage containers on the property which will be rented to the public. The containers are up to 40 foot long and 8 feet tall. In addition, the Applicant would like to lease portions of the property for the temporary storage of mobile homes, boats, antique cars and the like. No new buildings to the public will be constructed and only existing buildings will be used for the proposed expansion.

The container business will operate as follows. Employees of the business will report to the site in the morning and leave to perform their assigned duties. This will include delivering containers, emptying dumpsters, and returning empty storage containers. The employees will return to the site at the end of the day and depart for home. Customer traffic will be sparse and by appointment only. The only noise generated will be from the trucks and the loading of the containers. No repairs of any vehicles not associated with the business will be performed on the site. If this use is approved, the Applicant will waive the previously approved mulch operation. There will be no cleaning of dumpsters at this property.

Based on the above, the Board found the proposed use to be much less intense than the previous sawmill/pallet company and the proposed mulch manufacturing operation approved in Case No. 5073. The noise, dust, fumes and traffic generated will be much less than either a sawmill or mulch operation. Unlike the other uses, this use is primarily passive, with little or no noise, customer traffic, lighting or other adverse effects. Accordingly, the request for a substitution of non-conforming uses for the storage of containers *and the parking of vehicles** was granted, with the following conditions:

1. Regular hours of operation shall be from 7:00 a.m. to 7:00 p.m.
2. No mulch manufacturing or storage shall occur on site.
3. The conditions imposed on the previously approved use in Case No. 5073R (attached) are imposed on this use as well. The silt fence condition may be waived by the County during the site plan approval process.

5/20/09
Date/


Jacob M. Yingling, Chairman

*This phrase was inadvertently left out of the Board's Official Decision dated 2/22/08.