

Tax Map/Block/Parcel  
No. 4-24-35

Building Permit/Zoning  
Certificate No. 04-4148

Case 5011

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

**APPLICANT:** Johnny & Felicia Hoover  
George & JoAnn Hoover  
5209 Old Hanover Road, Barnhart RD  
Westminster, MD 21158

**ATTORNEY:** Michelle M. Ostrander

**REQUEST:** A conditional use for a contractor's equipment storage yard and variances from the required 400 ft. to 84 ft. side yard setback and to 67 ft. front yard setback.

**LOCATION:** The site is located at 5209 Old Hanover Road, Barnhart Road (Lot #2), Westminster, on property zoned "A" Agricultural District in Election District 3.

**BASIS:** Code of Public Local Laws and Ordinances, Chapter 223-71A (5), 223-116 and 223-186 A (2)

**HEARING HELD:** January 27, 2005

**FINDINGS AND CONCLUSION**

On January 27, 2005, the Board of Zoning Appeals (the Board) convened to hear a conditional use request for a contractor's equipment storage yard and variances from the required 400 ft. to 84 ft. side yard setback and to 67 ft. front yard setback. The Board made the following findings and conclusion:

The Applicants currently store grading and paving equipment on their property and in a large pole barn recently erected on the site. The equipment includes 3 dump trucks, 1 paver, 2 skid loaders, 2 rollers, 3 trailers, 1 backhoe, 3 plow blades and 4 salt spreaders. In addition, there is a dumpster outside the pole building.

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The Applicants reside on the property, which they purchased in 1995. The property is in an agriculturally zoned area, which includes other residences and large farmed parcels. The Applicant leaves in a truck at 6:30 A.M. and returns in the evening. The paving/grading business employs 4 full-time employees and 2 part-time employees. The property is kept clean and free of debris, and cleaning and maintenance of the equipment is generally performed off site. The Board heard no evidence regarding excess noise, dust, fumes, traffic, decreased property values or any other adverse effects.

The Board finds that a contractors equipment storage yard of this scale at this location would not generate adverse effects above and beyond those normally associated with such a use. There was no testimony or evidence presented to the contrary. Accordingly, the grant of a conditional use is warranted in this case.

The request for variances is more problematic. First and foremost, it is noted that the Board does not condone construction of buildings without appropriate permits in violation of the law. For that reason, we will treat the application for variances as if the structure did not exist, and its existence cannot support the grant of any variance. That being said, we find that there are some unique features to this property. It is located in the vicinity (across the street) of two large farmed parcels. In addition, the property consists of two parcels, which can be combined to create a larger (although still substandard) lot for this purpose. The storage yard appears to have been functioning without generating adverse effects to the neighborhood, and more specifically, to the immediate adjoining neighbors.

Inherent in the Board's authority to grant variances is the power to impose such conditions as it deems appropriate to protect the health, safety and welfare of the community. Accordingly, the requested variances are granted (lot area from 3 acres to 1-1/2 acres, from 400 feet to 84 feet on Barnhart Road and from 400 feet to 32 feet along the Crosby property), subject to the following conditions:

1. Equipment used for the business is to be limited to 3 dump trucks, 1 paver, 2 skid loaders, 2 rollers, 3 trailers, 1 backhoe, 3 plow blades, 4 salt spreaders.
2. The business shall be limited to four full-time and two part-time employees.
3. The Applicants shall consolidate two parcels into 1 lot by deed within 120 days of the date of this decision.
4. No fuel storage to be allowed on the site greater than 5 gallons.

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5. No salt storage is permitted on the site.
6. No equipment washing is permitted on the site.
7. No working on equipment shall be permitted outside the existing structure on the site from dusk to dawn
8. The use at this site is non-transferable
9. During the site plan process, a requirement shall be imposed requiring screening in form of evergreens along the Barnhart Road side of the storage area.

Date

2/16/05

Jacob M. Yingling  
Jacob M. Yingling, Chairman