

**Tax Map/Block/Parcel**  
**No. 12-21-77**  
**Case 6006**

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

**APPLICANT:** Todd Schaeffer  
85 Vista Loop  
Hanover, PA 17331

**ATTORNEY:** N/A

**REQUEST:** A request for a Conditional Use for a Contractor's Equipment Storage Yard and distance variances to adjacent properties and for an existing pavilion.

**LOCATION:** The site is located at 1303 Cherrytown Road, Westminster, Maryland, on property zoned "A" Agricultural District in Election District 3.

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

**HEARING HELD:** March 28, 2017

**FINDINGS AND CONCLUSION**

On March 28, 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 distance variances to adjacent properties and for an existing pavilion. Based on the testimony and evidence presented, the Board made the following findings and conclusions.

Jay Voight, Zoning Administrator testified about the application. He stated that there was no residence on the property. During his site visit for the variance hearing for the pavilion, he noticed that a business was being run from the property. There were no approvals for a business to be on the property. The pavilion needs to meet a 50' setback on the rear of the site. The applicant would need a variance from 50' to 22' at the rear of the pavilion. Mr. Voight stated that he probably would have granted the variance if an unapproved business was not being operated at the site. Zoning exhibit 1, the Official Decision of the Zoning Administrator, was entered into evidence. Mr. Voight asked the Board to consider placing a condition on the property. The condition would be that the use of a Contractor's Equipment Storage Yard be limited to Todd Schaeffer and his current business. He recognized that most uses of a Contractor's Equipment Storage Yard were more extensive than the use being made by Mr.

Schaeffer. The pole barn itself on the property was fine, but the use of that building as a Contractor's Equipment Storage Yard would require Board approval.

Todd Schaeffer testified on behalf of the application. He is the owner of Todd's Pool Service, LLC. He has been in the pool business for about eleven years. The former location for his business was in the process of foreclosure and he had to find a new location. That is when he found the current location for his business. Up to the time of his closing at the new location, no one informed him that he would not be able to continue his business in the existing pole barn on the property. His business was on the property at its present location for approximately four years. He had a sign in the front of the property to advertise for his business. He stated that he was not trying to hide anything about his business. He has two employees working for him.

He stores parts, plumbing materials, baking soda, salt and other materials as a part of his business in the pole barn. He stores the types of materials that people would have in their back yards. He also has two trucks for the business. Sometimes one of the vehicles is driven into and parked in the pole barn.

Mr. Schaeffer stated that his pool business was his livelihood and that he had nowhere else to go. He stated that if he were not granted his request for a Contractor's Equipment Storage Yard that the business would cease. He could not afford to rent out another place for his business. He believed that the rent alone would cause him to go out of business.

He built a pavilion within the last year. It is used by his family. The pavilion would need the 50' rear setback since there is no residence on the property. He did not believe that he would be building a house on the property although it could happen in the future.

Dale Miller testified in favor of the application. He said that he lived directly across the street from the property. He did not have any problem with the business at the property. He also stated that the lot behind Mr. Schaeffer's pavilion was a vacant lot that did not have public access. He stated that the lot could not be built on, and it would always likely be a vacant lot.

A March 13, 2017 memorandum by Lynda Eisenberg, Chief, and Clare Williams, Planning Technician, stated that the matter had been reviewed for consistency with the policies and recommendations contained in the *Carroll County Master Plan*, the *Carroll County Water & Sewer Master Plan*, and other plans. The staff finding was that the applicant's request is not inconsistent with the *2014 Carroll County Master Plan* and would not have an adverse effect on the current use of the property or its environs.

Board members commented that the use as a Contractor's Equipment Storage Yard was the least amount seen by the Board members. All of the other uses approved by the Board were much more extensive by comparison. The Contractor's Equipment Storage Yard in this case was enclosed. As to the Contractor's Equipment Storage Yard, the Board members did not want to have a role in putting a small business owner in the County out of business. The Board approved the Contractor's Equipment Storage Yard, the variances for the Contractor's Equipment Storage Yard, and the rear variance from 50' to 22' at the rear of the pavilion. The Contractor's Equipment Storage Yard could not be located anywhere on the property without the necessity for variances being approved. The pole barn was an existing structure on the property when the applicant purchased it. The Board placed a condition on the usage of the applicant's Contractor's Equipment Storage Yard. The condition was that the use be limited to his business known as Todd's Pool Service, LLC and that it be limited to pool construction and repair.

The Board was convinced that authorization of the request with regard to the request for 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.

April 3, 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.