

**Tax Map/Block/Parcel
No. 29&3&4&9&465
Case 5981**

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

APPLICANT: Linda M. Luke
452 Sullivan Road
Westminster, MD 21157

ATTORNEY: N/A

REQUEST: A request for a Conditional Use for a vintage furniture and garden shop.

LOCATION: The site is located at 744 Old Westminster Pike, Westminster, Maryland 21157, on property zoned "I-R", Restricted Industrial District, in Election District 7.

BASIS: Basis: Code of Public Local Laws and Ordinances, Section 158.079(D)(2).

HEARING HELD: October 26, 2016

FINDINGS AND CONCLUSION

On October 26, 2016, the Board of Zoning Appeals (the Board) convened to hear the request for a Conditional Use for a vintage furniture and garden shop. Based on the testimony and evidence presented, the Board made the following findings and conclusions.

Linda Luke is the owner of The Village Garden & Viintage Home Shop. Her proposed site has acreage of 11.97 acres. She has a total of from twelve to fifteen employees there, both full time and part time. She would like to transition her business to the new location reflected in the application. Carroll Gardens was previously at the location of her proposed site. The garden part of the business would be seasonal. She would also have at the site a full service nursery business. The hours would be from 9 am to 6 pm in the spring. The hours would be from 10 am to 5 pm for all of the other seasons. Basically, the operation would only be open during daylight hours. She believes that the City of Westminster can easily accommodate two vintage furniture stores within one mile of each other.

The proposed property is located in both the Restricted Industrial District (I-R) and the Residence, Suburban District or (R-20,000). Although the property is owned by James Myers, Ms. Luke has a contract in place to use the property if Board approval is granted. A rectangular portion of the property would include the area for large trees. This area would accommodate

larger trucks to pick up those trees. The other portion of the property would not accommodate the larger trucks. It would include materials for gardens and plant materials. Ms. Luke stated that the difference between her operation and a Lowe's or Home Depot was more quality services. There is also a stream and/or a wetland portion of the property.

An October 17, 2016 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 *2014 Carroll County Master Plan*, the *2007 Westminster Environs Community Comprehensive Plan*, the Carroll County Water & Sewer Master Plan, and other functional plans. The staff finding was that this request is not consistent with the 2007 Westminster Environs Community Comprehensive Plan, and would have an adverse effect on the current use of the property or its environs. The memo further stated that the request is not compatible with the vision and goals for the area.

A variance as to the lot size requirements was requested by the applicant in this case. The applicant had an 11.97 acre property as noted above. Zoning Code section 158.079 (D)(2) includes language that a parcel of land must not be greater than five acres in size. Ms. Luke did not create the lot lines for the property, because they existed before her intended use of the property.

Timothy Carrigan testified in opposition to the application. He moved to his home from Baltimore. He did not like the fact that there could be strangers behind his house every day. He would have not purchased his property had he known that such a land use could occur there. He admitted that he was unaware that his house was next to IR property though. He also believed that sufficient details were not set forth in the application.

Margaret Crest testified in opposition to the application. She built her house in 1960. She was concerned about the increased traffic and the large trucks that would be near her house. The road was much busier now than it was when she moved into her house.

Michelle Sick testified in opposition to the application. She noted that traffic was already bad when she had to back out of her driveway. An increase in the amount of traffic at the location would just make this problem worse. She had lived at her residence for twenty-four years.

Robert Humbert testified in opposition to the application. He believed that some sort of spot zoning was occurring with the application. He stated that vineyards used to be on the property. At one time the property was a working farm. He noted later that the property had always been farm property. He made a point that the applicant was also putting vehicles in a swampy area. He was concerned about vehicular traffic near a pond. Although the property was in the IR district, he stated that it was designated at low density and residential.

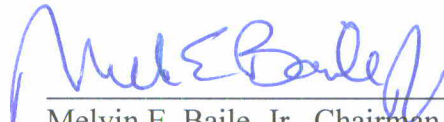
Marcy Carrigan testified in opposition to the application. She is a teacher. She wanted to retire and live on her property during her retirement. She did not want a full size garden center near her. She believed that the use being requested would decrease the value of her property. She also thought that the beauty of her property would be jeopardized.

Jay Voight testified at the request of the Board. He explained what commercial properties were and what industrial properties were. He also mentioned some principal permitted uses in the IR zone. He also explained the significance of a business park. He noted that the site in question did not qualify to be a business park because such parks had ten acre minimums and the businesses were planned to exist together from the beginning. He stated that the present site had separate individual businesses conducting their business in close proximity to one another.

The variance was approved by the Board, because it was an existing lot. The property used to be a farm. However, a portion of the property was always in the IR zone. The irregular shape of the property was a factor. The swampy area and the pond area were factors. The section of the lot actually zoned as IR was not much larger than the minimum of five acres.

The Board was convinced that authorization of the request with regard to 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 variance as to the lot size requirements.

10-28-2016
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.